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ABSTRACT

The readings presented in this textbook provide a balanced group of opinions. The topics covered are the Constitution, the Congress, the presidency, the bureaucracy, judiciary, media, interest groups, and the people. Perspectives presented were written so that one can draw three dimensional objects on a two dimensional surface, giving a sense of depth to the reader. With the U.S. government, different perspectives on a two dimensional document, the Constitution, make it a living, everyday reality for all individuals. Different opinions from all areas of the U.S. government come from different people providing a unique perspective. The teacher's guide is designed for the teacher who has too much to teach and too little time to teach. The articles in "Perspectives" are grouped in broad themes that, with the help of the teacher's guide, can be taught as a unit or as individual articles. Articles and activities can be adapted easily for a variety of courses, especially U.S. government and history. Teachers are encouraged to adapt the lessons to suit their own circumstances and students' abilities. Each activity is presented in one to three classroom periods. The unit opens with a general motivation activity that may be used individually or in conjunction with the other lessons. The motivator is followed by activities related to individual articles. Each activity includes objectives and a detailed procedure. A list of suggested enrichment activities is included at the end of the chapter. Many activities include student handouts that can be duplicated for student use. (JAG)

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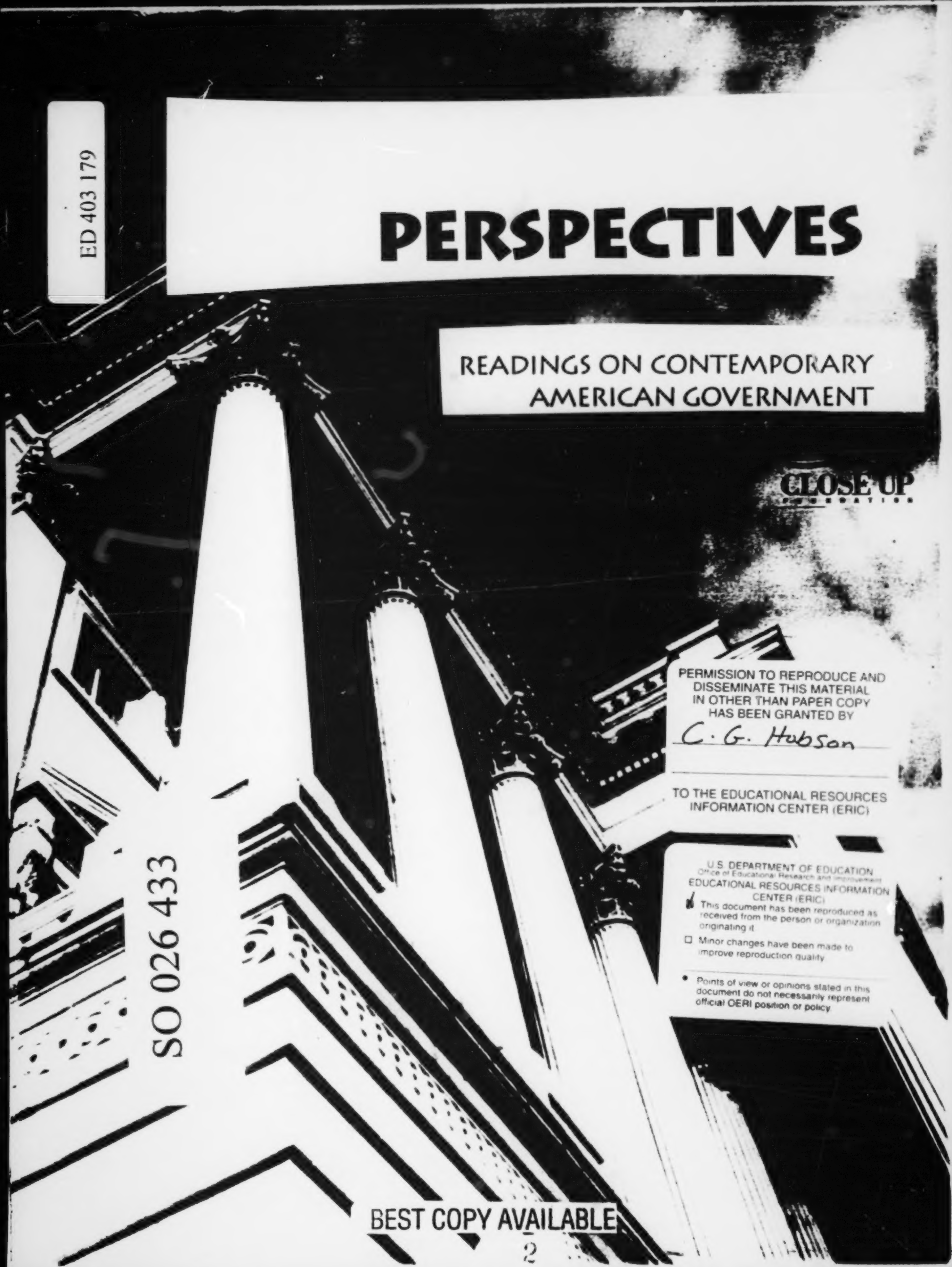

PERSPECTIVES

READINGS ON CONTEMPORARY AMERICAN GOVERNMENT

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The Close Up Foundation is a nonprofit, nonpartisan organization that encourages responsible participation in the democratic process through educational programs and publications in government and citizenship. Since its founding in 1970, Close Up has been committed to developing new and better ways for young people, teachers, and a widening circle of citizens of all ages to gain a practical understanding of how public policy affects their lives and how individual and collective efforts affect public policy.

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FOREWORD

Used in a personal sense, the word "perspective" refers to an individual's point of view: what that person sees depends on where he or she stands. Any number of factors can influence where a person stands. At the Close Up Foundation, we believe that a citizen's perspective on government should be, whenever possible, experience-based, up close and personal.

To that end, we've asked a variety of Americans to provide their firsthand "perspectives" on how our government works. Included in *Perspectives: Readings on Contemporary American Government* are authors ranging from the president to a revolutionary, from the speaker of the House to a lobbyist, from the chief justice to the plaintiff in *Roe v. Wade*. Also included are case studies that examine particular topics in depth.

The opinions expressed by the authors of the articles are entirely their own and do not represent the views of the Close Up Foundation. We have made every effort to create an overall balance of opinions—liberal, moderate, and conservative—but, due to space limitations, not every issue, if controversial, has a counter point of view. The teacher's guide accompanying this book contains ideas about how to use these articles in the classroom in a balanced way.

In art, perspective also refers to the ability to draw three-dimensional objects on a two-dimensional surface, giving them a sense of depth. It is often done through lines that appear to converge, such as the lines in the building on the cover of this book. Many different lines all converging toward the same point make a flat surface less static, more alive.

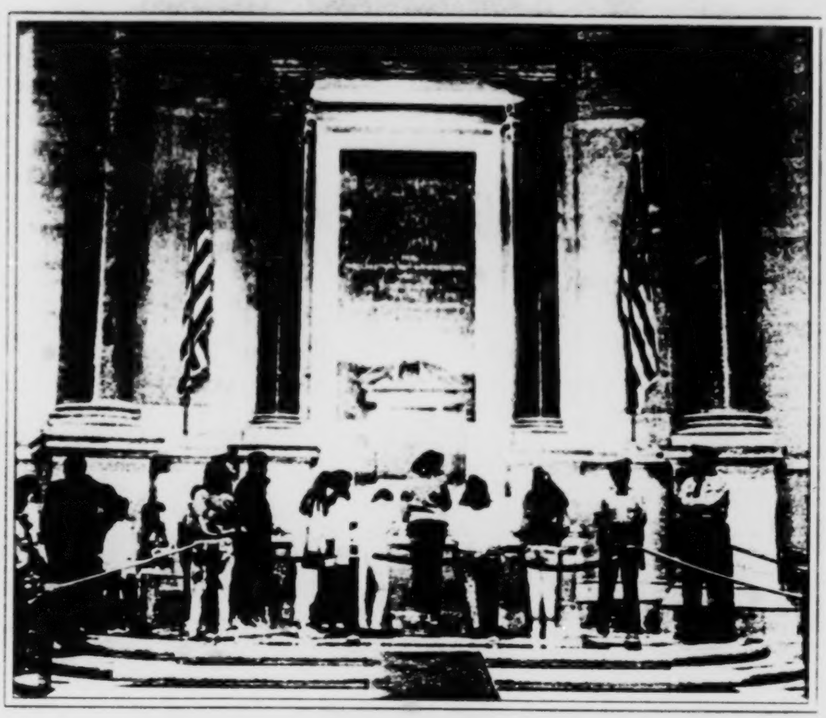
So it is with American government; different perspectives on a two-dimensional document, the Constitution, make it a living, everyday reality for all Americans. Each of us has a unique perspective on the political system—a special, often singular, gift to give. When we bring these perspectives together and focus them toward the same goal, a whole is created that is greater than the sum of all of the parts. *E pluribus unum:* from many, one.

We hope you enjoy *Perspectives*. It represents one of the most fundamental parts of American life—the precious and free-flowing diversity of thought.

Stephen A. Janger
President
Close Up Foundation

CHAPTER 1

THE CONSTITUTION



CHAPTER 1

THE CONSTITUTION

The Constitution is the most important document in American government. It sets forth the basic principles of government and protects fundamental civil liberties. The articles in this chapter explore the nature of the Constitution as a whole and its component parts.

But the original Constitution written in 1787 was not perfect, as former Supreme Court Justice Thurgood Marshall points out. By allowing slavery, according to Marshall, the Constitution created an inherent contradiction between "guaranteeing liberty and justice to all and denying both to Negroes." Justice Marshall argues that the meaning of the Constitution should not be limited to the intentions of the framers in 1787, but that the "living Constitution" has an evolving nature.

One of the Constitution's most fundamental principles is federalism, the sharing of powers between the national government and the states. Linda Chavez, a former White House official, maintains that the "new federalism," which shifts responsibility for many social programs back to the states, keeps power closer to the people. Mayor Raymond L. Flynn of Boston argues, however, that national problems—such as homelessness, unemployment, and poverty—need national solutions.

Another constitutional principle is separation of powers. But Lloyd N. Cutler, former counsel to President Jimmy Carter, declares that separation of powers is really a misnomer. Rather, says Cutler, the Constitution creates a system in which separate branches of government exercise shared powers. Because of these overlapping powers, deadlock can result unless Congress and the president can work together. The best way to ensure this cooperation, according to Cutler, is to have unified government, in which the president and Congress are of the same political party.

The Bill of Rights is the part of the Constitution many Americans hold most dear, because it protects their civil liberties. However, Arthur Spitzer, legal director for the

IN THIS CHAPTER

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Case Study: The Constitution **34**
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Washington, D.C., chapter of the American Civil Liberties Union (ACLU), points out that the Bill of Rights is in conflict with the main body of the Constitution, which sets forth a democratic government characterized by majority rule. But, says Spitzer, "the purpose of the Bill of Rights is to put some matters outside the majority's rule: to say that there are some decisions the majority cannot be allowed to make."

What does the Constitution mean to "We the People"? Ernest Green, the first black student to graduate from formerly all-white Little Rock Central High School, recalls how the Fourteenth Amendment's guarantee of "equal protection" became a living reality for him. LaDonna Harris, a member of the Comanche nation and president of Americans for Indian Opportunity, describes the unique position of Native Americans under the Constitution. Senator Orrin Hatch, in contrast to Justice Marshall, argues that the Constitution is not a "living" document that evolves according to the biases of unelected judges, but that its meaning lies in the actual words chosen by the framers.

Senator Daniel K. Inouye relates his experience as a Japanese-American who lived through Pearl Harbor and fought in World War II for his country, while his country's government interned other Japanese-Americans solely for racial reasons. To Gregory "Joey" Johnson, the defendant in *Texas v. Johnson* (1989), in which the Supreme Court held that flag burning was protected by the First Amendment, the Constitution is merely "an exploiter's vision of freedom" that gives legal authority to an oppressive system of capitalism. For Norma McCorvey, the actual "Jane Roe" in *Roe v. Wade* (1973), the Constitution protects the most fundamental right of all—privacy, including a woman's right to control her own body.

Some scholars believe that the secret to the Constitution's success is the amendment process outlined in Article V, which allows for peaceful change. This chapter's case study describes the various methods of amending the Constitution and explores the history of the Eighteenth and Twenty-first amendments, which both dealt with Prohibition.

This chapter's varying perspectives on the Constitution point out that our nation's most fundamental law can also be the source of our most fundamental disagreements. How "We the People" can live together despite our deepest differences is the real test of our constitutional system.

BILL
OF
RIGHTS
FREEDOM OF SPEECH
FREEDOM OF ASSEMBLY
FREEDOM OF RELIGION
FREEDOM OF THE PRESS
150 YEARS

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Supreme Court Historical Society

Justice Thurgood Marshall

served on the U.S. Supreme Court from 1967 to 1991. As a civil rights lawyer, he won 29 of the 32 cases he argued before the Court, including Brown v. Board of Education *(1954).*

A LIVING CONSTITUTION

I do not believe that the meaning of the Constitution was forever fixed at the Philadelphia Convention that wrote it in 1787. Nor do I find the wisdom, foresight, and sense of justice exhibited by the framers of the Constitution particularly profound. To the contrary, the government they devised was defective from the start, requiring several amendments, a civil war, and momentous social transformation to attain the system of constitutional government, and its respect for the individual freedoms and human rights, we hold as fundamental today. When contemporary Americans cite the Constitution, they invoke a concept that is vastly different from what the framers barely began to construct more than two centuries ago.

For a sense of the evolving nature of the Constitution, we need look no further than the first three words of the document's preamble: "We the People." When the founding fathers used this phrase in 1787, they did not have in mind the majority of America's citizens. "We the People" included, in the words of the framers, "the whole number of free persons." On a matter so basic as the right to vote, for example, Negro slaves were excluded, although they were counted for representational purposes—at three-fifths each. Women did not gain the right to vote for over 130 years.

These omissions were intentional. The record of the framers' debates on the slave question is especially clear: the southern states agreed to the demands of the New England states for giving Congress broad power to regulate commerce in exchange for the right to continue the slave trade. The economic interests of the regions coalesced: New Englanders engaged in the "carrying trade" would profit from transporting slaves from Africa, as well as from goods produced in America by slave labor. The perpetuation of slavery ensured the primary source of wealth in the southern states.

Despite this clear understanding of the role slavery would play in the new republic, use of the words "slaves" and "slavery" was carefully avoided in the original document. Political representation in the lower house of Congress was to be based on the population of "free persons" in each state, plus three-fifths of all "other persons." Moral principles against slavery, for those who had them, were compromised, with no explanation of the conflicting principles for which the American Revolutionary War had ostensibly been fought: the self-evident truths "that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

As a result of compromise, the right of the southern states to continue importing slaves was extended, officially, at least until 1808. We know that it actually lasted a good deal longer, as the framers possessed no monopoly on the ability to trade moral principles for self-interest. But they nevertheless set an unfortunate example. Slaves could be imported, if the commercial interests of the North were protected. To make the compromise even more palatable, customs duties would be imposed at up to ten dollars per slave as a means of raising public revenues.

No doubt it will be said, when the unpleasant truth of the history of slavery in America is mentioned, that the Constitution was a product of its times, and embodied a compromise that, under other circumstances, would not have been made. But the effects of the framers' compromise have remained for generations. They arose from the contradiction between guaranteeing liberty and justice to all, and denying both to Negroes.

The original intent of the phrase "We the People" was far too clear for any positive interpretation. Writing for the Supreme Court in 1857, Chief Justice Taney penned the following passage in the *Dred Scott* case, on the issue of whether, in the eyes of the framers, slaves were "constituent members of the sovereignty," and were to be included among "We the People":

> We think they are not, and that they are not included, and were not intended to be included. . . . They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race . . . ; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. . . . [A]ccordingly, a negro of the African race was regarded . . . as an article of property, and held, and bought and sold as such. . . . [N]o one seems to have doubted the correctness of the prevailing opinion of the time.

And so, nearly seven decades after the Constitutional Convention, the Supreme Court reaffirmed the prevailing opinion of the framers regarding the rights of Negroes in America. It took a bloody civil war before the Thirteenth Amendment could be adopted to abolish slavery, though not the consequences slavery would have for future Americans.

While the Union survived the Civil War, the Constitution did not. In its place arose a new, more promising basis for justice and equality, the Fourteenth Amendment, ensuring protection of the life, liberty, and property of *all* persons against deprivations without due process and guaranteeing equal protection of the laws. And yet almost another century would pass before any significant recognition was obtained of the rights of Afro-Americans to share equally even in such basic opportu-

Library of Congress

Dred Scott, a Missouri slave who had for a time been taken into free territory, sued for his freedom in *Dred Scott v. Sandford* (1857), but lost.

nities as education, housing, and employment, and to have their votes counted, and counted equally. In the meantime, Afro-Americans joined America's military to fight its wars and invested untold hours working in its factories and on its farms, contributing to the development of this country's magnificent wealth and waiting to share in its prosperity.

What is striking is the role legal principles have played throughout America's history in determining the condition of Negroes. They were enslaved by law, emancipated by law, disenfranchised and segregated by law; and, finally, they have begun to win equality by law. Along the way, new constitutional principles have emerged to meet the challenges of a changing society. The progress has been dramatic, and it will continue.

The men who gathered in Philadelphia in 1787 could not have envisioned these changes. They could not have imagined, nor would they have accepted, that the document they were drafting would one day be construed by a Supreme Court to which had been appointed a woman and the descendant of an African slave. "We the People" no longer enslave, but the credit does not belong to the framers. It belongs to those who refused to acquiesce in outdated notions of "liberty," "justice," and "equality," and who strived to better them.

And so we must be careful, when studying the Constitution written in Philadelphia in 1787, that we not overlook the momentous events that followed, and thereby lose our proper sense of perspective. Otherwise, we will make little more than a blind pilgrimage to the shrine of the original document now stored in a vault in the National Archives. If we seek, instead, a sensitive understanding of the Constitution's inherent defects, and its promising evolution through 200 years of history, we can celebrate the "miracle at Philadelphia" in a far more meaningful and humbling manner. We will see that the true miracle was not the birth of the Constitution, but its life.

Adapted from a speech to the San Francisco Patent and Trademark Law Association.

THE NEW FEDERALISM: TWO VIEWS

Manhattan Institute

Linda Chavez
is a senior fellow at the Manhattan Institute and served as director of the U.S. Commission on Civil Rights and director of public liaison at the White House under President Ronald Reagan.

POWER TO THE PEOPLE

One of the things the founders of our nation most feared was centralized government power. Indeed, our Constitution and our Bill of Rights were written explicitly to ensure that power rested with the people and that no single branch of government—whether the executive, legislative, or judicial—gains a monopoly of power.

The Tenth Amendment to the Constitution also guaranteed that powers not specifically delegated to the federal government or prohibited to the states by the Constitution be retained by the states or the people. The amendment was added to assuage fears that the Constitution itself granted too much power to the federal government at the expense of the states. In defending the new Constitution against charges that it placed too much power in the hands of the

Office of Mayor Flynn

Mayor Raymond L. Flynn
was reelected in 1991 to his third term as the mayor of Boston, Massachusetts. He is the former president of the U.S. Conference of Mayors.

ONE AMERICAN COMMUNITY

During the 1980s, the Reagan and Bush administrations used "federalism" as an excuse for the withdrawal of federal involvement from some of the most important issues of the day. Under the guise of federalism, Washington has asked states and localities to assume greater burdens while denying them the financial means to do so. Federalism is the legal rationale for the financial abandonment of our cities. Like much of what we have seen from the White House in the 1980s, federalism has been an economic and moral failure.

Taken in its entirety, the legacy of Reagan-Bush economic policy has been the impoverishment of our cities, the deterioration of our educational system and infrastructure, the pollution of our air and water, and the collapse of much of our banking system. In the 1980s, the top 1 percent of wage earners received 60 percent of all economic gain. As a result of Reagan-Bush economic policy, the richest 1 percent of the population (with a mean household income of $675,000 annually) now earns more than the total income of the bottom 40 percent of all families in America.

The increased disparity between rich and poor is only half the picture. During the 1980s, real incomes declined for three-quarters of American

CHAVEZ CONTINUED . . .

central government, James Madison wrote:

> [T]he first and most natural attachment of the people will be to the governments of their respective States. Into the administration of these a greater number of individuals will expect to rise. From the first of these a greater number of offices and emoluments will flow. By the superintending care of these, all the more domestic and personal interests of the people will be regulated and provided for. With the affairs of these, the people will be more familiarly and minutely conversant. . . .
> (*The Federalist* No. 46)

Despite the expressed intent of the founders and Madison's reassurances, the history of our government, particularly in the last half of the twentieth century, has been one of growing federal power. Some of this has been accomplished directly by the government taking over certain functions; some has come indirectly, especially by the "power of the purse strings."

Whenever the federal government gives money to the states or to local governments or agencies, certain obligations or rules follow. Until 1965, for example, no federal money was given to states or local education agencies for elementary and secondary education, and there was little federal involvement in how or what schools taught. Now the federal government gives billions of dollars a year to support public elementary and secondary schools, and along with the money comes federal dictates about exactly how the money can be spent. Federal aid accounts for less than 10 percent of elementary and secondary education budgets, but is probably responsible for 90 percent of the reporting requirements that burden schools.

Federal laws require that all handicapped children must be served in the least restrictive environment possible, that children who cannot speak English are entitled to special instruction, and that athletic and other programs in schools be made available on an equal basis to girls as well as to boys, among other requirements. No matter how worthy the aim of such mandates, they carry with them reporting require-

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FLYNN CONTINUED . . .

families. The basics of middle-class life—home ownership, college education for the children, decent health care, even a steady job—are increasingly out of reach. In early 1992, more than 8.5 million Americans were out of work.

The Reagan-Bush claim that the states can best address these problems has justified federal inaction in the face of enormous poverty and human suffering. More than 33 million Americans are living and dying in poverty, including 29 percent of all children. The related ills of poverty such as homelessness, crime, violence, and drug abuse all dramatically increased in the 1980s.

Throughout the past decade, "states' rights" have been invoked in violation of the rights of working people. The right of working people to a decent, well-paying job, the right of young people to a proper primary and secondary education, the right of the sick to high quality, accessible health care, the right of students to an affordable college education, and the rights of all Americans to walk streets free of crime and drink water free of pollution have been sacrificed for "states' rights"—which are meaningful only on a piece of paper.

We must put America back to work, reinvigorating our economy and our country. The federal government, in partnership with the states and cities, should undertake a massive investment in restoring and rebuilding our nation's crumbling infrastructure. More than 7,000 public works and economic development projects around the country have been drawn up by cities and are ready to go. The release of $12.9 billion in federal funding for these programs would create more than 400,000 immediate jobs.

We need a major investment in housing. A program to construct 1 million single-family homes and apartments in a year would generate 1.3 million jobs, $34 billion in wages, and $14 billion in additional federal, state, and local tax revenues, as well as create significant ripple effects to promote economic recovery.

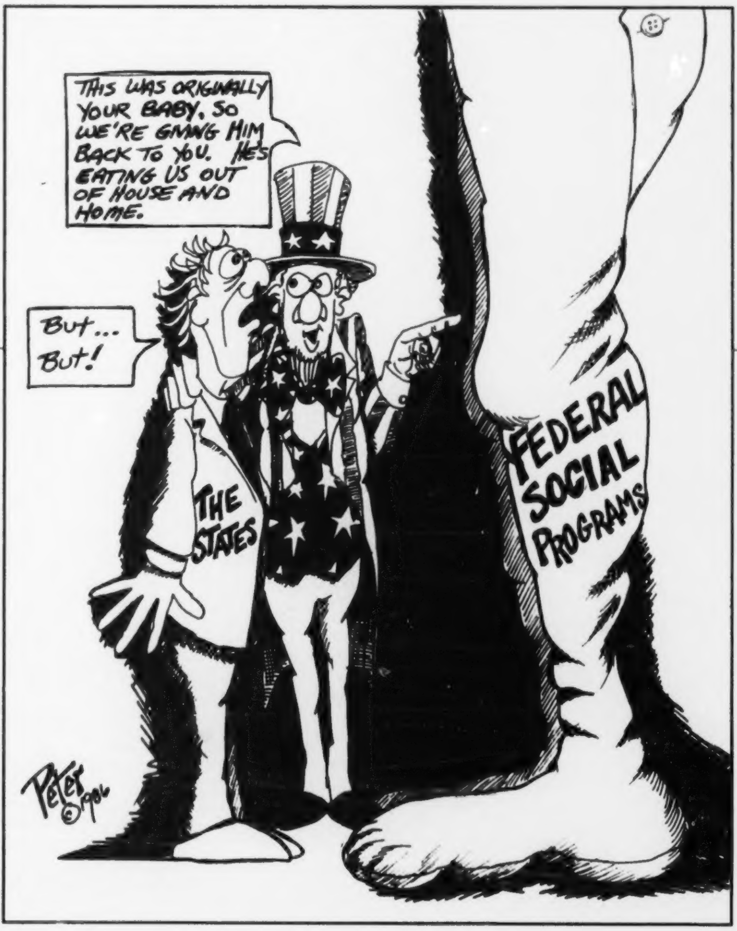
Immediate low-interest loans should be provided to entrepreneurs and small businesses. New and start-

CHAVEZ CONTINUED . . .

ments that amount to tons of paperwork and thousands of jobs to monitor their enforcement. Meanwhile, local school districts and schools have very little discretion about how best to serve their students and must divert their own resources to do the job as the federal government dictates.

When Ronald Reagan was elected president in 1980, he promised to give more authority back to state and local governments, but with that authority came increased responsibilities to support certain types of programs. He called his proposals "the new federalism." The purpose behind the new federalism was to return power to that level of government closer to the people, in the way the Constitution intended. When programs are designed and funded by the federal government, people have less direct control over the way those programs are run, or whether they even desire such programs or place as high a priority on them as does the federal government.

The federal budget is so large and so complex that most people have only the vaguest notion of how their tax dollars are being spent. For a limited number of functions—national defense being the most obvious—the federal government is clearly the only institution that can properly manage and fund the necessary programs. If defense were left up to the states and some states decided to invest less in protecting their citizens, the entire country would be


THIS WAS ORIGINALLY YOUR BABY, SO WE'RE GIVING HIM BACK TO YOU. HE'S EATING US OUT OF HOUSE AND HOME.
But... But!
THE STATES
FEDERAL SOCIAL PROGRAMS
Peter ©1986

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FLYNN CONTINUED . . .

up businesses today are the seeds of a healthy economy tomorrow.

We need to invest in education, from preschool through college. Studies show that Head Start has been an effective and cost-efficient antipoverty program. The federal government needs to provide Head Start with complete and necessary funding, so that all young people born into poverty are given the tools to help not only themselves, but also the nation.

The federal government should join the states and the cities to develop a national strategy for the conversion of our defense industry to civilian research and production. Those who devoted themselves to the technical and scientific aspects of our national security should not be abandoned. Maintaining a bloated defense budget that misallocates our technical know-how, as well as our finances, makes no sense militarily or economically. An inflexible, federalist view of government that calls for different states to independently organize economic conversion from defense to civilian production is a

CHAVEZ CONTINUED . . .

vulnerable should a hostile nation decide to exploit weaknesses in one of those weaker states.

But many other functions that the federal government now performs, and taxes citizens to pay for, would be better decided on and funded at the local or state level, where people can keep track of what is being done and how much it costs. These functions belong, in Madison's words, where "the personal interests of the people will be regulated and provided for" and where the details of which "the people will be more familiarly and minutely conversant."

Efficiency and accountability are two reasons why state and local governments are better equipped to undertake certain tasks, but another important reason is flexibility. Some social problems are particularly difficult to solve, and what may work in one community may not be appropriate for another.

Eradicating poverty, for example, has proved daunting. For thirty years, the federal government has grappled with ways to provide assistance to the most needy in our society through a variety of special programs. One program in particular, Aid to Families with Dependent Children (AFDC), has become controversial lately because many critics believe it actually increases dependency, making it more difficult for families to escape poverty.

Now, states, which receive money from the federal government for AFDC, are experimenting with ways of moving people off the welfare rolls. Some states will withhold welfare payments to families whose children don't attend school regularly; others will encourage women who become pregnant to marry their babies' fathers by giving financial incentives to those who do so; still others are proposing cutting back payments rather than increasing them when additional children are born to a mother on welfare; and some are proposing to limit the number of years families will be eligible to remain on welfare.

Whether any or all of these experiments will be successful in encouraging less welfare dependency cannot be known now, and it may

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FLYNN CONTINUED . . .

prescription for failure. Our country is more interconnected than it used to be and requires the coordination only the federal government can offer.

The federal government needs to take the lead in initiating a comprehensive health care system that provides accessible, high quality health care to all Americans. A reformed health care system should combine the quality and efficiency of a profit-based health care system with the humanity and security of government organization.

We need a partnership among the federal government, states, and localities, characterized by pragmatism, flexibility, and cooperation with one another. Only then will our most pressing problems be addressed using all the intelligence and resources our nation has to offer.

Federalism and "states' rights" have often been used cynically throughout history to block attempts by the federal government to improve the lives of working people. During the industrial revolution, deplorable and dangerous working conditions, prohibitions on unions, and rampant and abusive child labor practices were protected from federal intervention by the claim that such issues were the domain of the states and not the federal government.

The greatest strides in equality and freedom in America have occurred through federal intervention on behalf of common people who possess limited means of defending themselves against the powers of special interests and impersonal economic cycles. The abolition of slavery, the rights of labor to organize, the rights of unions, the right of women to vote, abolition of child labor, improved health standards and conditions in the workplace, the New Deal, and civil rights guarantees were accomplished only when the federal government overcame the refusal of states to change with the times.

Today, the idea that the federal government should not interfere in the politics of the states has nothing to do with philosophy—it has to do with money. Federalism has justified federal abandonment of our cities, which is the abandonment of poor, middle-class, and working people—

CHAVEZ CONTINUED . . .

not be known for years. But allowing states to try different methods increases the likelihood that good, creative solutions will eventually be reached. The new federalism would encourage this kind of experimentation and flexibility.

Unfortunately, Congress has never fully committed itself to putting in place the necessary elements of the new federalism. Members of Congress, protective of their power and confident that they know best how to solve the nation's problems, continue to try to direct policy from Washington. Cities, especially those with the most pressing social problems, often look to the federal government for the money to run programs and are willing to put up with federal rules and regulations in order to get it. These cities often lack the tax base necessary to fund such programs on their own and sometimes face hostile, non-city voters in their state who will not support their programs.

Unfortunately, the federal government's involvement sometimes makes matters worse. It takes decisionmaking out of the hands of elected officials closest to the people and puts it in the hands of unelected bureaucrats in Washington. The founders of our nation anticipated the problems of centralized power and established constitutional guarantees to safeguard against it, but the people must make sure those guarantees are enforced.

FLYNN CONTINUED . . .

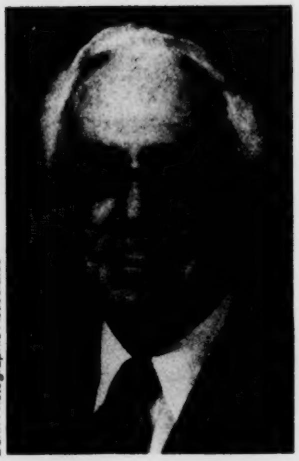
those whom government should be serving most.

Providing high quality, affordable health care, developing and maintaining a sound and safe infrastructure, and eradicating poverty and its associated ills should be the foundations of a new partnership among the federal government, states, and cities. Homelessness, poverty, unemployment, and the breakup of the family are national issues that need to be dealt with on a national level. Asking states and cities to solve national problems is saying they should not be solved.

Opponents of prohibitions on child labor claimed federalism violated "states' rights." In the 1950s and early 1960s, many states claimed the abolition of segregation violated their rights as states to legislate. Once again we are hearing "states' rights" and "federalism" to defend policies that are irresponsible and inhumane.

Our country is in trouble. The crisis we face is not only economic, but political and social as well. It is a crisis we face as a nation that should be solved as a nation. No state or locality should go at it alone, not as one community against another. Each should work with one another, all together, so that we move forward, as one American community.

SEPARATE BRANCHES, SHARED POWERS


Dunn Photographic Associates

Lloyd N. Cutler

served as counsel to President Jimmy Carter and is a partner in the law firm of Wilmer, Cutler, & Pickering. He is also co-chairman of the Committee on the Constitutional System, a nonprofit organization that examines problems in the relationship between the president and Congress.

The American Constitution usually is described as a system based on Montesquieu's principle of the separation of powers. In reality, it is a system based on the principle of separate branches exercising shared powers.

The framers decided to blur the strict separation of powers to advance the equally important and nearly irreconcilable principle of checks and balances. They decided the best way to maintain checks and balances was to allow at least one other branch to share in each power principally assigned to a different branch.

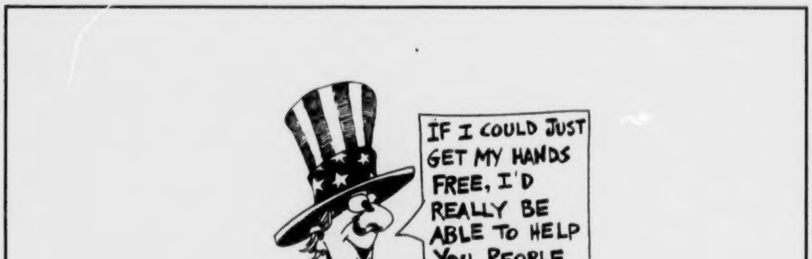
As is true of all shared powers, the sharers of power must figure out a way to cooperate with one another, or the result is deadlock. We sometimes tend to congratulate ourselves on the supposed virtues of inefficiency and stalemate in democratic government, but the Constitutional Convention was convened because of the utter despair of its members over governance under the Articles of Confederation. Although the framers carefully protected against the risk of tyranny, they also tried to design a system that would be more efficient than the one that it was intended to replace.

The resulting system of separate branches exercising shared powers has worked well to prevent another tyranny, and continues to do so. For the first 160 years of the republic—until about 1950—it also permitted the national government to function powerfully and decisively when a need for bold action arose at home or abroad. For the last four decades, however, the national government has been characterized by an abnormally high degree of deadlock on major issues of domestic and foreign policy. I believe the explanation lies in the changing role of our national political parties.

The original Constitution makes no mention of political parties. When Madison and the other framers confronted the practical problem of making their brave new system work, they proceeded to organize two broadly based national political parties. The elected president and the elected legislators of the same party had a greater natural affinity for cooperation with one another than with the legislators of the other party, and this affinity tended to offset the institutional wariness between the executive branch and Congress in exercising their shared powers.

Although this two-party system continues, its success in fostering cooperation between the branches has declined remarkably. In thirty-five out of the thirty-eight presidential elections held from John Adams's victory in 1796 through Harry Truman's in 1948, the party winning control of the White House also won a majority in both the House and the Senate. In the twentieth century, until 1956, the party winning the White House *always* won control of the House and the Senate. But 1956 signaled the beginning of a polar shift: the party winning the White House has failed to win a majority of one or both houses in six out of the last nine presidential year elections. Since 1968, the statistic is five out of six.

The modern phenomenon of divided government is the main reason we now have deadlocked government most of the time. The close correlation between the two is illustrated by persistent high budget deficits. High deficits occur when the president and Congress cannot form a consensus on a mix of taxes and competing expenditure programs that will create a reasonable balance between inflows and outflows. High deficits are the consequence of deadlock between the executive and legislative branches in the exercise of their shared power to legislate.


IF I COULD JUST GET MY HANDS FREE, I'D REALLY BE ABLE TO HELP YOU PEOPLE.
MAYBE 'YES'... MAYBE 'NO'.
SEPARATION OF POWERS
CHECKS AND BALANCES

Close Up Foundation/Peter

One political sea change that helps to explain the remarkable rise of divided government is the steady decline since World War II in voter loyalty to a single party. This decline in party loyalty has transferred political power from party leaders to individual candidates for the House and Senate, particularly incumbents. The views of party leaders are far less important to these candidates than the views of the individuals and interest groups who provide the candidates with the money needed to win election or reelection.

Even when the congressional minority party wins control of the White House, it faces long odds in its efforts to win back a majority of the House and Senate. Over the past thirty years, about 90 percent of all House and Senate incumbents of both parties who ran for reelection were reelected, even at times when their own party lost control of the presidency. This result is in sharp contrast to what happens in parliamentary governments in which the chief executive is not elected by a separate ballot.

One may fairly ask what is so bad about the rising phenomenon of divided government. Many thoughtful people fully recognize the cost of deadlock but see a heavier cost in a return to party loyalty and unified government. They regard the hodgepodge of inconsistent national decisions and nondecisions under divided government as the best available consensus that can be achieved among the diverse interest groups that make up so huge and variegated a nation. They fear that unified government would give an administration too much power to work its will. They read the results of the 1984 election, with its wide degree of ticket splitting, as showing that many who voted for President Reagan wanted the insurance policy of a Democratic majority in the House.

But on balance, the negative values of divided government clearly outweigh the positive ones, while the positive values of unified government clearly outweigh the negative ones, for the following reasons:

- Our national government makes far more major decisions today than ever before. The competing interests involved in each decision are much more complex, but the decisions still must be made.
- Because of our growing interdependence, many of our government's decisions involve reaching agreements with other nations. These are extraordinarily difficult to make because, in times of divided government, the president is likely to be the only major head of government who cannot commit the government he heads.
- In a divided government, both parties and their elected officials usually condemn the resulting hodgepodge of outcomes, yet manage to avoid being held accountable for them. A unified government usually will be held accountable for its errors and omissions at the next election.
- The constitutional role of the Supreme Court limits the extremes to which unified government can take us. The Court will not permit a unified government to legislate beyond its constitutional powers or impair basic constitutional rights. Primarily because of the separation of the branches, unified government in America has never been efficient enough to achieve extreme and divisive results.

Unified government does not assure creative and effective government, but divided government comes close to assuring stagnant and ineffective government. All of the acknowledged great presidents—the Mt. Rushmore quartet of Washington, Jefferson, Lincoln, and Theodore Roosevelt, as well as Woodrow Wilson and Franklin Roosevelt—presided over unified governments. One can hardly think of a single major legislative program in this century that was adopted during a period of divided government.

The available methods of reducing the frequency of divided government include changing our election laws and amending the Constitution. Constitutional amendments may not prove necessary because despite significant barriers in the Constitution, unified government prevailed most of the time until about 1950.

Three possible changes in our election laws should be considered:

- Electing the president a few weeks before Congress. A two-stage election would maximize the new president's chances to win a majority for his party in the House and Senate.
- Requiring states to allow voters to cast a block vote for all the candidates of one party in federal elections.
- Creating public financing of congressional campaigns, if candidates agree not to use any other funds, so that incumbents would lose their present money-raising advantage.

If these statutes did not work, lowering some barriers raised by the Constitution itself would be necessary. To encourage voters to think of a party's presidential and congressional candidates as a team, a constitutional amendment could provide for changes in House and Senate terms to coincide with presidential elections. Another amendment could allow Congress to regulate campaign spending directly, which the Supreme Court has held violates the First Amendment.

These are all rather modest proposals. None would shake the foundations of the republic, nor would they alter the basic political system. But they would significantly improve the chances of restoring unified government as the standard condition of governance under the American system of separate branches exercising shared powers.

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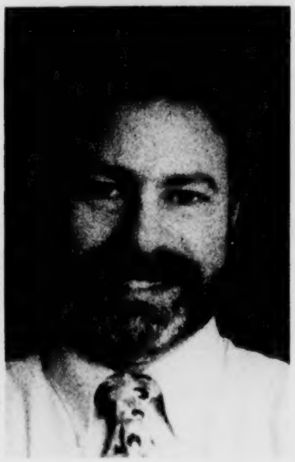
CIVIL LIBERTIES AND THE CONSTITUTION



Close Up Foundation/Renée Bouchard

Arthur Spitzer
is the legal director of the Washington, D.C., chapter of the American Civil Liberties Union (ACLU), a nonprofit, nonpartisan organization dedicated to protecting civil liberties and civil rights through litigation, lobbying, and public education.

Can a board of education decide that next year all black students will attend East High School and all white students will attend West High? Can a public school class begin the day with the recital of the Lord's Prayer? Can a teacher search a student's handbag on a whim to look for marijuana? If a student circulates a petition in the lunchroom calling for repeal of the school dress code, can she be ordered to stop?

The answers are no, no, no, and no. The reason is the United States Constitution—specifically the Bill of Rights. Strictly speaking, the Bill of Rights includes only the first ten amendments to the Constitution (added in 1791). In practice, other amendments also fit within the Bill of Rights, including the Fourteenth (1868), which requires the government to treat people equally regardless of their race, sex, or other characteristics; and the Fifteenth, Nineteenth, and Twenty-sixth, which extended the right to vote to black males (1870), to women (1920), and to eighteen-year-olds (1971).

Public schools cannot be racially segregated because the Fourteenth Amendment to the Constitution prohibits the government from discriminating against people based on race. It also prohibits discrimination based on other characteristics that are irrelevant to a person's qualifications, such as sex, religion, or national origin.

Public schools cannot begin the day with prayer because the First Amendment guarantees each of us freedom of religion—both the freedom to practice our own religion (or to practice no religion) and the right not to have to practice someone else's.

A public school teacher cannot inspect a student's handbag or backpack on a whim because the Fourth Amendment protects each individual's right to privacy and requires the government to have a factual basis to suspect someone of violating the law before the person can be subjected to a search.

A public school student has a right to circulate a petition because the First Amendment prohibits the government from interfering with a person's peaceful expression of his or her views.

Of all the sections of the Constitution, the Bill of Rights has the most direct impact on the everyday lives of all Americans. Most of the Constitution is a blueprint for the structure of the federal government—how officials are elected or appointed and what their duties are—but the Bill of

Rights deals with the relationship of the government to its citizens.

In a sense, the Bill of Rights stands in conflict with the main body of the Constitution. The basic philosophy of our government is democracy—a government of the people, by the people, and for the people, in Lincoln's words. Decisions in a democracy are made by majority rule, either directly, as in the election of the president and members of Congress, or indirectly, as when laws are passed by the legislature. But the purpose of the Bill of Rights is to put some matters outside the majority's rule: to say that there are some decisions the majority cannot be allowed to make.

But why shouldn't the majority always rule? The answer comes from the Declaration of Independence—that there are "certain inalienable rights" to which each of us is entitled as an individual. The philosophy of the Constitution is that a person's religion is his or her private business, not the government's; that "a man's home is his castle"; and that the government should treat all its citizens fairly and without prejudice. The Bill of Rights protects those rights for each of us, individually, so that they cannot be taken away by a majority that may hate our particular race or religion or political activity.

People who are in the majority at any given moment often don't understand why they shouldn't be allowed to have their way. The simple answer is that by respecting the rights of others, they are protecting their own rights in the long run, because tomorrow, or next year, or ten years from now, they may be in the endangered minority.

History is replete with examples: when labor unions began organizing in the 1920s and 1930s, when civil rights workers began marching in the South, when people began demonstrating against the war in Vietnam, they were often called communists or traitors, and local authorities often attempted to stop their activities. Yet ultimately, their causes prevailed. New religions—from Christianity 2,000 years ago, to the Christian Scientists and Mormons of the nineteenth century, to the Scientologists, Hare Krishnas, and "Moonies" of today—have almost always been despised and persecuted by the existing majority. Yet many religions that were once new and radical are well established and accepted by society today.

In 1977, when a Nazi organization wanted to hold a march in Skokie, Illinois, the city council tried to prevent them. Many people couldn't understand why a group that advocated the extermination of Jews should be allowed to demonstrate in a mostly Jewish town, but the courts upheld their right to con-

UPI/Bettmann

Mary Beth and John Tinker were suspended from school for wearing black armbands to protest the Vietnam War. In *Tinker v. Des Moines School District* (1969), the Supreme Court overturned the suspensions, ruling that students do not "shed their constitutional rights at the schoolhouse gate."

duct a peaceful march. Just imagine what might happen today if the courts had ruled the other way: the city council of a town where most voters disapproved of abortions might ban meetings or other activities by pro-choice groups on the ground that they also advocate mass murder. The lesson of history is that the only way to protect the rights of any of us is to protect the rights of all of us.

In addition to the provisions of the Constitution, many federal and local laws also perform an essential function in extending the protection of civil rights and civil liberties to the private sector. One of the most important facts about the Bill of Rights, and perhaps the least understood, is that it applies only to action *by the government*. That is why the examples at the beginning of this article were all set in the public schools. The framers of the Constitution were worried about governmental tyranny, not private conduct. Thus, for example, it is no violation *of the Constitution* for a private company to engage in race or sex discrimination.

However, we have decided as a society that such private discrimination is unacceptable, and so Congress has passed laws prohibiting it. Other laws in some places protect people against private discrimination based on age or sexual orientation, or against having their privacy invaded by the use of telephone taps or lie detector examinations.

Because there will always be unpopular minorities, the fight to protect civil rights and civil liberties will never be completely won. But with the Bill of Rights to shield us from majority tyranny, the United States is likely to remain one of the freest societies that has ever existed on the face of the earth.

Lehman Brothers

Ernest Green
is managing director at the Washington, D.C., office of Lehman Brothers, an investment firm. He was the first black student to graduate from Central High School in Little Rock, Arkansas.

PERSPECTIVES ON THE CONSTITUTION

EQUAL PROTECTION OF THE LAW

When the U.S. Supreme Court handed down its historic *Brown v. Board of Education of Topeka, Kansas*, decision in 1954, I was a student in Little Rock, Arkansas, finishing the eighth grade. Little Rock had one high school for blacks, Horace Mann High School, and one for whites, Little Rock Central High School.

While I may not have understood all of the constitutional issues surrounding the *Brown* case, I did recognize it as an opportunity for ending segregation in Little Rock and for helping me get a better education. At black schools, for instance, we had to use books that had first been used by white students.

The *Brown* decision made me feel that the U.S. Constitution was finally working for me and not against me. The Fourteenth Amendment provided for equal protection and due process under the law, but it also meant I could believe I was a full citizen in this country, not a second-class citizen as segregation had made me feel.

In the spring of 1957, I was asked, along with other black students in Little Rock, to consider attending Central High School the following fall. Initially, a number of students signed up to enroll, but when fall came, only nine of us had survived the pressure to quit—and our names were published by the school board in the local newspaper. I knew this was my personal opportunity to change conditions in Little Rock. And I knew that if I didn't go, things would never change.

During the summer, rumors began to circulate that there might be violence if the "Little Rock Nine," as we became known, tried to attend school in the fall. I didn't pay much attention to what was going on. I was too busy trying to get ready for school to begin, doing a lot of reading and studying. I believed the world wasn't going to fall apart because nine black students were going to be admitted to a school with more than 2,000 white students.

But when we tried to attend school, we were met by an angry white mob and armed soldiers. Arkansas Governor Orval Faubus had called out the National Guard to prevent us from enrolling, defying a federal court order to integrate the Little Rock schools. Governor Faubus said he was doing this to protect the peace and tranquility of the community; obviously, my rights were secondary. It seemed strange to me at the time, and still does today, that the governor believed it was important to protect the rights of whites, but not those of blacks.

Finally, President Dwight Eisenhower called out the U.S. Army's famous 101st Airborne Division to protect us and enforce the federal court's integration order. "Mob rule cannot be allowed to override the decisions of our courts," the president declared. It was a powerful symbol that the president of the United States was willing to use his power and his might to protect nine black students and to uphold the American Constitution.

When we tried to attend school again, about 1,000 paratroopers were there to protect us. We rode to school in an army station wagon, surrounded by army jeeps that were loaded with soldiers holding machine guns and drawn bayonets. It was an exciting ride to school!

Being kids, we joked about our each having our own personal soldier. When we got to the steps of Central High, the cordon of paratroopers formed a ring around us: they marched; we walked. I turned to Terrance Roberts, another one of the Little Rock Nine, and said, "I guess we'll get into school today."

Once we got inside, it was like being in a war zone. We were harassed, our books were destroyed, and our lockers were broken into several times a day. We learned not to keep anything important in them.

I was a senior that year. As graduation neared, I was surprised at the number of students who signed my yearbook, saying they admired my courage in sticking it out. But on the night of graduation, there was an eerie silence when my name was called. I didn't care that no one clapped for me. I knew that not only had I achieved something for myself, but I had broken a barrier as well.

One of the many life lessons from my high school experience is that you can express and act on unpopular beliefs. Secondly, we must all be willing to make the U.S. Constitution a living document, and thirdly, you don't have to be a senior citizen to do it. Only when we stand for what we believe in do we improve life for all Americans.

Americans for Indian Opportunity

LaDonna Harris

is a member of the Comanche nation and president of Americans for Indian Opportunity, which works to strengthen tribal governments.

AMERICAN INDIANS AND THE CONSTITUTION

American Indians are unique in the United States because they have dual citizenship: Indians are U.S. citizens as well as citizens of their tribes. This is because some Indian tribes are inherent units of government with jurisdiction over their own people and land. This sovereignty comes from international treaty law, not from the laws of the United States, although it is reaffirmed by them. As legal scholar Charles F. Wilkinson noted, "Indian tribes are part of the constitutional structure of government," but "tribal authority was not created by the Constitution."

The sovereignty of Indian tribes was defined under federal law by the Supreme Court in the 1830s as the limited sovereignty of "domestic dependent nations." This sovereignty does not grant absolute power. For example, domestic sovereignty is the power of the tribes to govern their own affairs but not to make international treaties.

With dual citizenship comes dual entitlement. As citizens of the United States and of the state in which they live, Indians are guaranteed equal protection and thus equal entitlement to government services as all other citizens. This right is protected by the United States Constitution.

Under dual entitlement, Indians are entitled to services of the federal government as well as to additional services provided by treaties. Actually, services for Indian people, especially in health and education, predate by half a century or more services to economically disadvantaged people in the United States. Services in health and education should be thought of as payments on contracts to buy land from Indian nations. Honoring the U.S. treaties is more a property right than welfare.

Indian tribes make up approximately .5 percent of the nation's population, and collectively they govern 2.5 percent of all the land in the United States—an area larger than all of New England, with Pennsylvania and Delaware added. The more than 500 tribal, pueblo, and village governments are a part of the 39,000 governmental units that constitute the U.S. federal system, along with cities, counties, states, the District of Columbia, and the U.S. Trust Territories. American Indian populations are increasing dramatically. Between 1970 and 1980, the American Indian population increased almost three times, and even greater increases are anticipated in the 1990s.

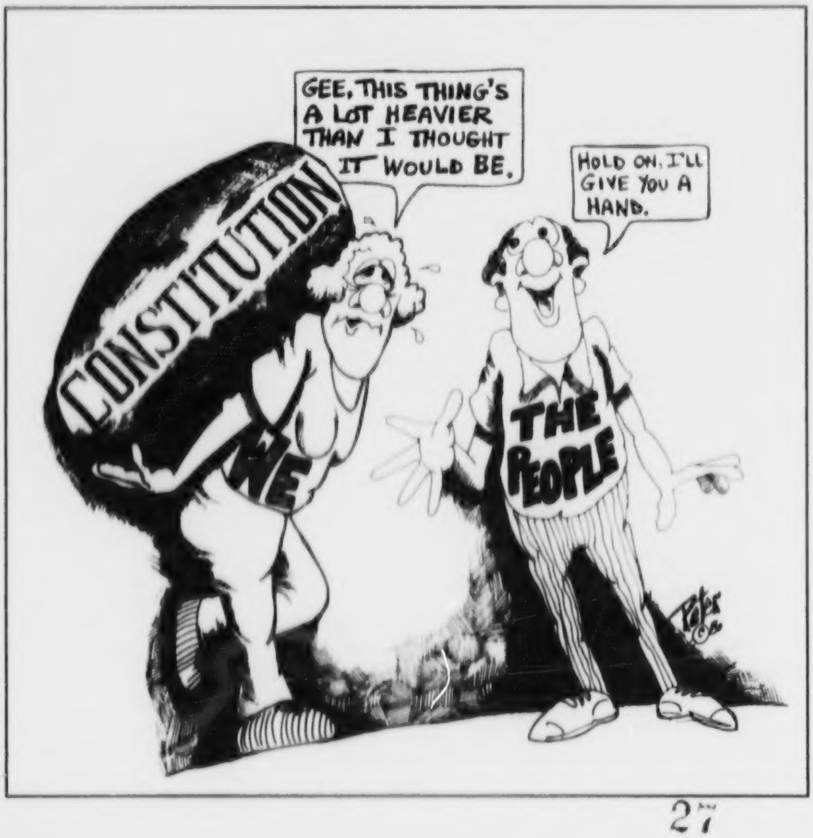
One of the responsibilities of tribes today is their duty to act as municipalities and provide the services commonly expected from governments. From this duty comes the authority to tax both Indian and non-Indian residents of a reservation to provide these services.

The exact governance of a particular group of Indian or Alaskan Native people is subject to immense variation depending on the tribe or group, their particular treaty or enabling statute, the races of the parties when an issue arises, the location of land, and the narrow tribal or state power involved in a particular issue. Some tribes are federally recognized and are affected by treaty relationships with the federal government, others were recognized by acts of Congress, and still others have state recognition instead of or in addition to federal recognition.

This multiplicity results in very complicated governance situations. On Navajo territory, for example, there are twenty-two different ways land is held. To understand the governance situation of each group, one must go tribe by tribe and state by state.

Because the history taught in U.S. schools is basically the history of European experience in the western hemisphere, it is almost impossible for non-Indians and even some Indians to understand the unique status of Indian tribes in the American system of governance. One such example was President Ronald Reagan's remarks to a student in Moscow in the spring of 1988.

When asked how the United States could justify its Indian policy, President Reagan replied: "Maybe we


GEE, THIS THING'S A LOT HEAVIER THAN I THOUGHT IT WOULD BE.
HOLD ON, I'LL GIVE YOU A HAND.
CONSTITUTION
WE
THE PEOPLE

Close Up Foundation/Peter

made a mistake in trying to maintain Indian cultures. Maybe we should not have humored them wanting to stay in the kind of primitive lifestyle. Maybe we should have said, 'No, come join us. Be citizens along with the rest of us.'"

But American Indians *are* citizens, and their unique culture is a great gift to the country as a whole. We hope that you, the future leaders of America, will become better informed about the history of the First Americans and become true partners with us in a brighter future for our nation.

Office of Senator Hatch

Senator Orrin G. Hatch

(R-Utah) has served in the U.S. Senate since 1977. He is a member of the Senate Judiciary Committee, which deals with constitutional issues and Supreme Court nominations.

THE WORDS WE LIVE BY

Since 1977, I have served in the U.S. Senate and have regularly—almost continuously—been confronted with questions concerning the meaning and importance of the Constitution. Even if I had not already enjoyed political philosophy, one cannot serve very long in the Senate, particularly on the Judiciary Committee, without reflecting at some length on the meaning of the Constitution.

Before coming to the Senate, I was, as all practicing attorneys are, involved in more practical, but still important, reflections on the Constitution: what rights does it give my client? what procedures does it require? when does it come into play? and when may it be irrelevant?

In both contexts, one truth becomes increasingly clear: the Constitution is the single greatest birthright that we as American citizens enjoy. And, while I do have strong views on what the Constitution means, whatever it may mean to me personally is of far less importance than what it means to all Americans, present and future, as well as to freedom-loving individuals throughout the world.

As Daniel Webster wrote over a century ago: "We may be tossed upon an ocean where we can see no land—nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. The chart is the Constitution." Still, the majority of Americans tend to take our Constitution for granted. That worries me.

We enjoy more personal freedoms than any other people on the face of the earth at this moment or, for that matter, in the history of civilization. However, not enough citizens have ever stopped to read the document that guarantees them these personal freedoms. And to think that the entire Constitution contains only 2,800 words. The Bill of Rights is only 436 words.

It is important to read the Constitution so that the words chosen by the framers and ratified by the states are given their full value. These words are what the Constitution means, and they are far more important than what dozens of commentators or generations of judges may say *about* the Constitution.

I do not mean that the Constitution is carved in stone or that its details should never be modified as changing circumstances warrant. I simply believe that the principles that underlie the Constitution do not change: that freedom, liberty, justice, and equal rights are guarantees that America can never go back on. And I also recognize what many would prefer to ignore: that the Constitution provides its own mechanism for alteration, the amendment process set out in Article V.

Some today are apparently not satisfied with that arduous process, which requires ratification by three-fourths of the states. These critics of the process contend that the Constitution is a "living document" that unelected judges can change to accommodate evolving circumstances.

Our Constitution does live, but not in that sense. Our Constitution is durable not because it evolves, but because it contains enduring principles and creates institutions in accord with the realities of human nature. These institutions, particularly Congress, can meet changing circumstances by adjusting our laws, but the foundation—the Constitution—does not waiver.

To say that the Constitution must change with the times is to strip it of all that makes it a constitution. It then would become like any other federal law, subject to whatever tinkering seems justified at the moment.

If the Constitution is to be changed, Article V provides the method. This method has ensured that the Constitution's principles have remained above passing trends. The document has endured 200 years largely because we have not presumed to load it with the results of the latest public opinion polls. Over 5,000 amendments have been proposed in Congress, but only twenty-seven have become part of the Constitution.

Numerous constitutional debates now claim attention in Washington: whether our three-branch separation of powers allows for the independent agencies that many scholars call a "fourth branch"; whether the so-called independent counsel law violates separation of powers; whether the president may exercise a line-item veto over an act of Congress; or whetherCongress is the final arbiter of what constitutes a "bill" under the Constitution.

The important point is not the conclusion of these discussions but the discourse itself. Lively constitutional debate has many positive side effects. It stimulates interest in reexamining our founding principles. In the long run, the vision of the framers is only as strong as the people who carry the torch today. These debates give us a chance to reevaluate and reinforce our commitment to the Constitution.

Debate and controversy have always been associated with the Constitution. We sometimes forget that many people were wary of the Constitution before it was ratified. They didn't look to the new Constitution to give them rights they did not already have—they were most worried that the rights they already possessed, guaranteed by state constitutions and common law, might be abridged by a monolithic new federal government.

Just as a debate gave birth to the Constitution, a great debate today can reinforce our freedoms. Also, a renewed affirmation by America of the truth and validity of our governing principles says something important to the rest of the world. Other countries receive assurance that government can exist to make life more free and more secure for individual citizens.

America's role as a symbol of hope to the rest of the world has never been clearer than it is now. As repressive governments tumble one by one, citizens of those countries are coming to look increasingly to western-style democracy as their hope for the future.

Such was the case in China, where thousands of students gave their lives in 1989 to protest a lack of the same freedoms that we have enjoyed for so long. The replica of the Statue of Liberty that those students rallied behind in Tiananmen Square may be gone, but as long as the original Statue of Liberty continues to welcome the oppressed to America, hope endures.

Office of Senator Inouye

Senator Daniel K. Inouye

(D-Hawaii) has served in the U.S. Senate since 1963. He fought in World War II as a member of a Japanese-American unit.

JAPANESE-AMERICANS AND THE CONSTITUTION

The defining moment in my life was an event that changed the lives of thousands of Americans and the course our country would take in the latter half of the twentieth century. It would also try my faith in my country and the foundation on which it stands: the rights as guaranteed for every American under the Constitution. As citizens of this country, we are bound to uphold and defend not just a document, but the spirit behind the letter of our law. The Constitution gives meaning to us as Americans.

I was a seventeen-year-old high school student when World War II broke out literally in my backyard—in the skies above Pearl Harbor in Honolulu, Hawaii. My need to become totally involved in the war effort sprang from an insidious sense of guilt, the invisible cross lashed to the back of every "nisei" (those of us born in the United States to immigrants of Japanese ancestry) at the instant when the first plane bearing that rising sun appeared in the sky above Honolulu.

Of course, we had nothing to feel guilty about, and all rational people understood this. But every American of Japanese descent I knew carried this special burden and worked doubly hard because of it.

In December 1991, Americans recognized the sacrifice and bravery of our young men in uniform caught in the surprise outbreak of the war in Hawaii. Early 1992 marked the fiftieth anniversary of another wartime event, one that many Americans may not be aware of, but nevertheless exacted much pain and anguish on thousands who never set foot on a battlefield.

In February 1942, President Franklin Roosevelt signed Executive Order 9066, which authorized the internment of Japanese-Americans, an unprecedented experience in the history of American civil rights. These Americans were determined by our government to be security risks, without any formal allegations or charges of disloyalty or espionage. They were arbitrarily branded as such solely on the grounds of their racial ancestry. As a result, loyal citizens lost their livelihoods and their homes, living as virtual prisoners in their own country.

Ironically, the same president who signed his name on the order also uttered these words as he authorized the formation of a combat team of loyal American citizens of Japanese descent: "No loyal citizen of the United States should be denied the democratic right to exercise the responsibilities of his citizenship, regardless of his ancestry. Americanism is a matter of the mind and heart; Americanism is not, and never was, a matter of race or ancestry."

As one who volunteered to fight in this combat team, I proudly exercised my right to defend the Constitution and my country. But across the ocean, in another part of my country, people who shared my Japanese ancestry were denied certain inalienable rights guaranteed by the Constitution.

BEST COPY AVAILABLE

Their rights were sacrificed under the cloak of national security. Too often, in the name of national security, it has been fashionable to deny Americans their rights. In this case, the Congress supported the president's policy of removal and detention by making the violation of orders issued pursuant to Executive Order 9066 a criminal offense.

Sadly, the United States Supreme Court upheld the removal and detention in the context of war. But as we know, the Supreme Court has not always been correct. There was a time when the justices upheld slavery and that was the law of the land. The Supreme Court in this case upheld internment and that was the law of the land at that moment.

But years later, the presidentially appointed Commission on Wartime Relocation and Internment of Civilians found no documented acts of espionage, sabotage, or fifth column activity by any identifiable American citizen of Japanese ancestry or resident Japanese aliens on the U.S. West Coast. This was supposed to have been the rationale for the mass evacuation and incarceration. In its 1983 report, the commission concluded that the internment was motivated by racial prejudice, war hysteria, and a failure of political leadership.

I am confident that Americans will agree that the internment of their countrymen who happened to be of Japanese ancestry was a tragic chapter in our history and ought not to be repeated. If we fail to learn from this unfortunate experience, then leaders of our government could once again hide behind the cloak of national security and persecute Americans of a particular race, ethnicity, or religion for the actions of people in their ancestral homeland.

Although I lost an arm in combat, I consider myself fortunate because I was able to return home. Thousands of my fellow Japanese-Americans who were interned volunteered to join the 442nd Infantry Regimental Combat Team—the most decorated World War II unit in the U.S. Army for its size and length of service. However, after the war, these heroes wondered if there ever would be a home for them again in this country.

The federal government's recent compensation checks and letters of apology for the internment pale against Japanese-Americans' huge loss of pride and property and the many years of pain caused by the stigma of being branded disloyal. While the compensation may be a token amount, my hope is that this government action strengthens our Constitution by reaffirming our commitment to upholding the constitutional rights of all our citizens. We can demand no less of a commitment to preserve the very essence of what defines us as Americans.

Library of Congress

Japanese-Americans were forcibly removed from their homes on the West Coast and sent to relocation camps during World War II.

AP/Wide World Photos

Gregory "Joey" Johnson

is a spokesperson for the Revolutionary Communist Youth Brigade. He was the defendant in Texas v. Johnson *(1989), in which the Supreme Court held that flag burning was protected by the First Amendment.*

AN EXPLOITER'S VISION OF FREEDOM

In a provocative article, Bob Avakian, chair of the Revolutionary Communist party, described the U.S. Constitution as "an exploiter's vision of freedom." I completely agree with that view.

From slavery to capitalism, why has the Constitution been such a valuable tool for different privileged elites or ruling classes in the United States? Avakian explains, "The U.S. Constitution has always remained a document that upholds and gives legal authority to a system in which the masses of people, or their ability to work, have been used as wealth-creating property for the profit of the few."

What the Constitution's justification for capitalist economic and political relations has meant in terms of the much-talked-about "freedom of expression" in this country is that the means for creating and molding public opinion are highly, highly monopolized. The same capitalist and imperialist class force that uses its military to enforce U.S. domination in the Middle East also owns and controls the major media in the United States.

There is absolutely nothing "unconstitutional" (although I believe it is truly criminal!) about the massive promotion of patriotism, yellow ribbon fever, progovernment lies, censorship, and propaganda that played such a major role in shaping public opinion in support of the U.S. war against Iraq. And if you do say or do something that seriously challenges the system, the same powers-that-be will use their monopoly of armed forces, the police, and the courts to suppress you.

One American flag gets burned as a political statement against U.S. imperialism and all its wars of aggression and genocide, and the U.S. Supreme Court has to figure out if it's constitutional. I think the real reason my case was examined was that it wasn't just one flag that the government was, or is, worried about. Recently, flags have burned in demonstrations against Supreme Court rulings restricting a woman's right to an abortion, the U.S. war against Iraq, increasing racism, and many other outrages of the system.

It's important to look at the historical context for any Supreme Court ruling. In 1989, as the Berlin Wall fell in eastern Europe and the Tiananmen Square massacre happened in China, there was an international spotlight on how governments around the world were treating political dissidents. How hypocritical would the powers-that-be in the U.S. have looked if they imprisoned someone for burning a flag in protest in this country when they were encouraging people to burn flags in eastern Europe?

There are significant sections of the people in this country against any form of forced patriotism by the government. Had the Supreme Court ruled against me, perhaps even more flags would have burned. During the oral arguments in my case, one of the justices revealed this concern when he asked the Texas prosecutor if it wouldn't be better to organize a counterdemonstration of flag wavers than to have the government directly repress flag burners.

When the Supreme Court ruled that the Constitution did allow flag burning, President George Bush called for an amendment to the Constitution to criminalize flag burning. Also, Congress tried unsuccessfully to stop flag burnings with its Flag Protection Act of 1989. And of course, the police haven't stopped arresting people for burning flags in protests. A woman burned a flag in Cleveland, Ohio, to protest the Iraq war and was convicted by the court there of "inciting to violence," an attempt to circumvent the ruling in *Texas v. Johnson*.

The Constitution has been a useful tool historically to suppress political opposition to the system during periods of major political and economic crisis. The Sedition Act during World War I made it a crime to publish an antiwar leaflet. Jehovah's Witnesses were persecuted prior to World War II becaused they refused to say the Pledge of Allegiance to the flag. The Smith Act punished suspected communists in the 1950s. And during the 1960s, draft card burners were convicted for their protests.

Today, as the "New World Order" careens into deeper crisis, the powers-that-be are desperate to repress everything threatening their "traditional values" and their rule. Their actions range from censoring high school newspapers and rap lyrics, to attacking a woman's right to an abortion, to locking down inner-city housing projects, to expanding the application of capital punishment. They have not discarded the Constitution, but rather maintained the "democratic shell" and just "reinterpreted" the Constitution to embrace an increased climate of repression and police-state rule.

I'm glad the people in eastern Europe and the former Soviet Union are rebelling against the phony communism that existed there. But the solution is not the "market-driven economy" and the U.S. Constitution. I think what is needed now more than ever is real communism. The *Communist Manifesto* vision of making a radical rupture with all existing property relations and all oppressive ideas is a far more liberating vision for human society than the U.S. Constitution.

Jane Roe Women's Center

Norma McCorvey

was the actual "Jane Roe" in Roe v. Wade *(1973), the Supreme Court case that upheld a woman's right to choose an abortion.*

I'M JANE ROE

The Constitution is important to me because it protects the most basic right of all—privacy, including a woman's right to control her own body. That was not true in 1969, when I sought an abortion. Poor and pregnant, I was already the young mother of a child from a broken marriage. I had no job and no permanent place to live.

I tried to find a doctor who would perform an abortion, but because the procedure was illegal, the level of professionalism among practitioners was less than that of butchers who grind up hamburger. The clinics were filthy. The equipment was antiquated. And the likelihood of life-threatening injury and infection was high. Rather than risk death at the hands of some quack, I decided to have the baby and put it up for adoption.

Through the adoption attorney, I met two young lawyers, Sarah Weddington and Linda Coffee, who were looking for a plaintiff to challenge the Texas abortion law. I was still very young and insecure, and the thought of being in the limelight scared me to death. Also, I had a five-year-old daughter whom I did not want to entangle in my politics. So Sarah and Linda came up with the "Jane Roe" pseudonym, and I decided to accept the challenge of seeking a legal abortion.

On March 3, 1970, *Roe v. Wade* was formally filed in the Dallas court system. I was between six and seven months pregnant. The court system moves very slowly. I honestly had thought that my court case would be settled in time for me to get an abortion, although I didn't realize that an abortion at that late stage of my pregnancy would have involved major surgery—a Caesarean section.

In June of 1970, I went into labor at two o'clock in the morning. My water broke, and I began hemorrhaging. I asked the hospital staff if the baby was a boy or a girl, but they refused to tell me or let me see it. I became hysterical because of the way they were treating me, and they had me sedated. Later, a nurse brought the baby girl to my room, telling me it was feeding time. When she realized her mistake, she snatched the baby out of my arms.

I am bound by a confidentiality agreement with the adoption court not to speak about this child, but I can say that giving her up was the most agonizing experience of my life. I hope that women who choose adoption today are treated with more sensitivity than I was back then.

Two and a half years later, on January 22, 1973, I read in a short article on the lower right front page of *The Dallas Times-Herald* that abortion had become legal. My initial reaction was that I had been cheated, because I did not have a choice regarding my reproductive freedom. Because I carried the "Roe baby" to birth, one of the ironies of my life is that I have never had an abortion.

For many years, I remained basically anonymous, except for occasional appearances as Jane Roe. But in 1989 I finally accepted myself as Jane Roe and stepped out of my political closet. I learned very quickly that there was a price to pay for this action. I became the target of vicious attacks. Aside from threatening letters and calls, baby clothes were thrown in my yard, my car was vandalized, and I was constantly afraid to go outside my home. Finally, late one night a car drove by and fired shotgun blasts through my front door. The first shot barely missed my head, and I now have almost no hearing in my right ear.

Decisions concerning childbearing are necessarily intimate, personal, and private. The Supreme Court recognized in 1973 that individuals, weighing their individual circumstances, make better decisions than the state. Although I never got to make that choice for myself, I'm glad that "Jane Roe" made freedom of choice possible for the women who came after her.

The Constitution

PROHIBITION AND ITS REPEAL

by Charles R. Sass

This is the story of two amendments to the Constitution: the Eighteenth Amendment, which took something away from Americans; and the Twenty-first Amendment, which gave it back. As you read, try to answer these questions:

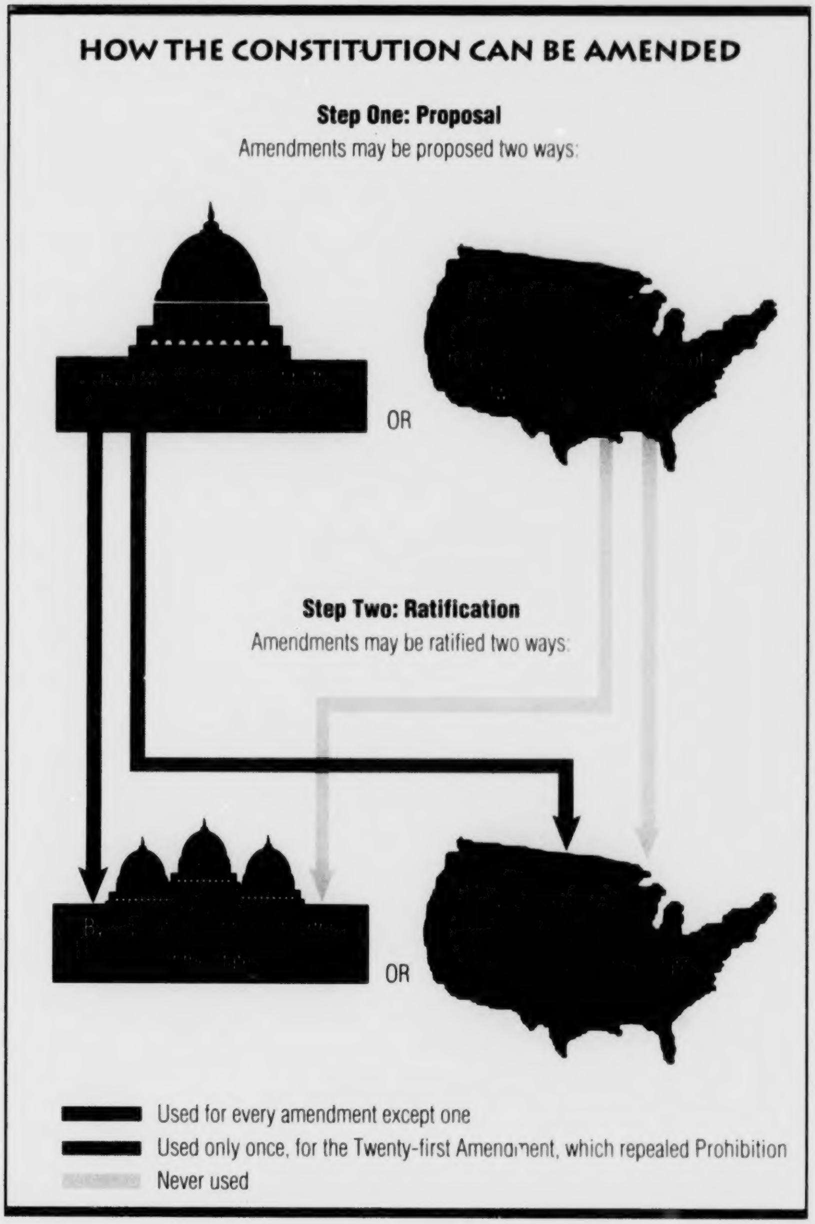
- *How can the Constitution be amended, and what is unique about the way in which the Twenty-first Amendment was ratified?*
- *How did Republicans and Democrats differ in post-Civil War America?*
- *What was Progressivism, and why did it lend impetus to the Prohibition movement?*
- *Why have historians commonly branded Prohibition a failure?*
- *What roles were played by the Great Depression, the New Deal, and Franklin Roosevelt in bringing about the repeal of Prohibition?*

Library of Congress

In more than 200 years the Constitution of the United States has been amended only twenty-six times—a mere sixteen times since the addition of the Bill of Rights in 1791. (The first ten amendments, making up the Bill of Rights, were submitted together to the states for ratification.) Only twenty-six amendments in 200 years is a remarkable statistic considering how much the nation has changed. The framers of the Constitution, realizing that the country would grow and develop and that their document would have to change with it, included an article (Article Five) explaining the difficult process for amending the Constitution.

Article Five states that amendments to the Constitution may be proposed by a two-thirds vote of both houses of Congress or by a national convention called by Congress at the request of two-thirds of the state legislatures. Proposed amendments must be ratified by either an affirmative vote of three-fourths of the state legislatures or by three-fourths of the state conventions called to vote on the amendment. Congress chooses the method of ratification. Only one amendment, the Twenty-first, has been ratified by state conventions; all others were approved by state legislatures.

Nearly 10,000 proposals to amend the Constitution have been introduced in the Senate or House of Representatives over the years. Many were repeated attempts to deal with issues that were eventually resolved by amendment. Numerous proposed amendments came before Congress to outlaw slavery, extend voting rights to women, regulate traffic in liquor, and the like. Other more unusual proposals included abolishing dueling, limiting the length of military enlistment terms, abolishing the presidential veto power, electing postmasters, and even changing the name of the country to the "United States of the World." In recent years, serious attempts have been made to amend the Constitution to guarantee equal rights for women, to balance the federal budget, and to prohibit burning the U.S. flag. Despite thousands of attempts to amend the Constitution, only a few have been successful.


HOW THE CONSTITUTION CAN BE AMENDED
Step One: Proposal
Amendments may be proposed two ways:
OR
Step Two: Ratification
Amendments may be ratified two ways:
OR
▬ Used for every amendment except one
▬ Used only once, for the Twenty-first Amendment, which repealed Prohibition
▭ Never used

The twenty-six amendments address a diversified list of topics: guarantees of freedoms and rights for individuals, protections for suspected criminals, extensions of voting rights to previously disenfranchised Americans, rules for elections of senators and presidents, and others. However, two amendments—the Eighteenth and the Twenty-first—occupy a niche unlike any of the others. They are the only two amendments specifically concerned with regulating a product—alcohol. They are also the only two amendments that deal specifically with each other; one repeals the other.

Scholars and students alike often point to the Eighteenth and Twenty-first amendments and wonder why they occupy a place alongside the other almost sacred paragraphs that guarantee Americans their rights, freedoms, and protections. This case study investigates how an amendment came to be added to the Constitution whereby a legislative majority imposed its morality on a large and unwilling segment of the population and then, realizing its mistake and bowing to public pressure, undid this imposition by ratifying another amendment.

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THE EIGHTEENTH AMENDMENT

> The Eighteenth Amendment went into effect on January 16, 1920. On that date the corpse of John Barleycorn arrived in Norfolk, Virginia on a special train. While his Satanic Majesty trailed along in deep mourning and anguish, twenty pallbearers carried an enormous coffin to a tabernacle where evangelist Billy Sunday preached the funeral oration to more than 10,000 people.
>
> George Brown Tindall
> *America: A Narrative History*, Volume II (1984)

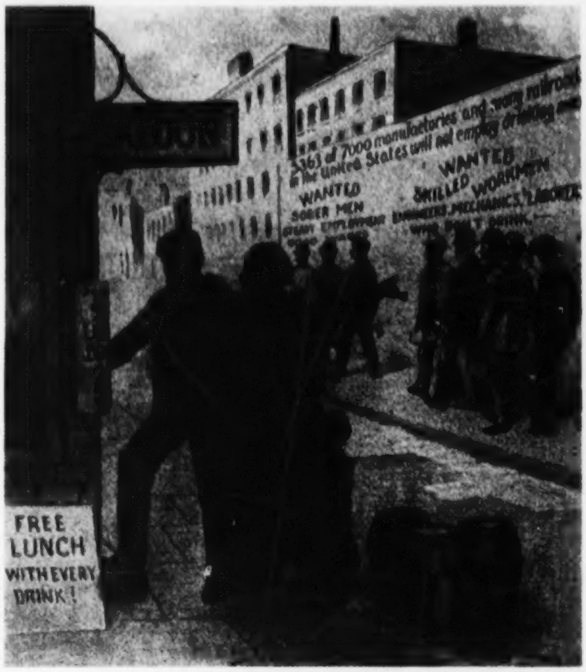
On the day that the Eighteenth Amendment went into effect, thousands of Americans celebrated the death of "John Barleycorn" and "Demon Rum"—common metaphors for liquor. Most were followers of well-meaning reformers who were convinced that prohibiting, in the words of the amendment, "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof" would make the United States a better place in which to live. Prohibition—commonly called the "noble experiment"—was part of the U.S. Constitution for more than fourteen years before it was repealed by the the Twenty-first Amendment.

COLONIAL ROOTS

Even in the earliest colonial period, large numbers of people believed that the consumption of liquor was harmful to the body and sinful for the soul. The early campaigners against alcohol generally did their work with the blessings of the mainline Protestant denominations whose ministers habitually warned their people about "strong drink." However, most of the colonials, even the devout churchgoers, were not strict Prohibitionists who wanted to ban the manufacture and sale of alcohol completely. Their biggest concern was with the abuse of liquor and the misery it brought. Even the dour New England Puritans did not advocate temperance, although they had little tolerance for public drunkenness. In fact, Puritan minister Reverend Increase Mather once said, "Drink is in itself a good creature of God, but the abuse of drink is from Satan."

Colonists came to America from all over Europe, bringing their religious beliefs and social morals with them, and some were more tolerant of alcohol than others. The attitude of the various churches toward liquor ranged from strict temperance to ambivalence. Simply stated, temperance was not much of a moral issue in colonial America.

The manufacture and sale of alcohol held a solid place in the economy of early America. Farmers often converted their crops to grain alcohol for easy sale, and the government commonly taxed such products. Corn liquor was often used as an element of barter, and colonial taverns flourished. So while many Christian ministers spoke out against the abuses of liquor, many of their congregants accepted its manufacture, sale, and consumption. And few early politicians even bothered to bring up the subject.


363 of 7000 manufactories and
in the United States will not employ drinking
WANTED
SOBER MEN
STEADY EMPLOYMENT
WANTED
SKILLED WORKMEN
ENGINEERS, MECHANICS, LABORERS
FREE
LUNCH
WITH EVERY
DRINK!

Culver Pictures, Inc

Temperance advocates promoted their cause in a number of ways, including posters illustrating the evils of liquor. Here the message is that men who frequent saloons not only have trouble getting jobs but are also mistreating their families. Progressive moral reformers of the early 1900s hoped to convince legislators to ban the production and consumption of alcohol.

POLITICAL ROOTS

While the issue of temperance was largely ignored in colonial America, there was always a fairly prominent and vocal segment of the U.S. population who believed that the nation suffered for its alcohol habit and advocated banning liquor entirely. Their voices were never completely silent, and after the Civil War the Prohibition movement picked up speed. Beginning in 1872, a newly formed Prohibition party nominated a candidate for president and continued to do so for many years. Despite not having a great deal of success in national elections, Prohibitionists did manage to elect numerous state and local candidates who were sympathetic to their cause. Even the two major political parties of the time, the Republicans and the Democrats, drew some distinctions between themselves regarding Prohibition in the second half of the nineteenth century.

Republicans tended to be Protestants of British descent or other established "American stock" and thought of themselves as prototypical Americans. They were "Yankees" who lived in New England, New York, and parts of the upper Midwest. The party attracted many reformers and moralists along with the remnants of the former Know-Nothing party, who were nativists (anti-immigrant) and anti-Catholic.

Post-Civil War Democrats, on the other hand, were much more heterogeneous, made up of southern whites, Catholics, Jews, first-generation immigrants, and labor union members. Their most common trait was anti-Republicanism—a revulsion to what many Democrats called the "party of morality." They enjoyed their greatest successes in northern and eastern cities and the rural South.

Differences between the two parties over liquor laws were evident. Republicans wanted to cut off liquor from thousands of new immigrants who were crowding into American cities during the 1880s. Many of these newcomers were hard-drinking Irish, beer-drinking Germans, and wine-loving Italians—and most were Democrats. Thus, the Republicans—the self-proclaimed "party of morality"—took up the cause of Prohibition, often running local candidates on the platform of banning liquor in their communities. Meanwhile, Democrats seldom ran on a temperance platform, except in the rural South where most people, although overwhelmingly Democratic, were greatly influenced by their conservative, antiliquor Protestant church denominations.

PROGRESSIVISM

U.S. history was marred by scandal and corruption after the Civil War and Reconstruction, and reform-minded politicians of all parties began to emerge near the end of the century. These reformers took aim at many targets: corrupt government officials, dishonest corporations, urban political machines, labor abuses, and the like. Thus was born a movement called *Progressivism*. Progressivism was a broad-based reform movement that emerged from other more narrow reformist ideas of the post-Civil War period. Earlier groups included the farmer-inspired Populists, labor-affiliated Socialists, civil service reformers called mugwumps, and disciples of muckrakers—the influential writers who sought to shake up American society with their works.

But Progressives rejected being categorized as advocates for single issues. Rather, they saw themselves "rescuing" the nation by democratizing it. They promoted such direct democratic reforms as the initiative, referendum, recall, direct primaries, and the popular election of senators. They promoted efficiency in government and business, and they urged more government regulation of utilities and transportation facilities. Progressives fought for more social justice. They urged slum clearance and public housing, child labor laws, and health and safety standards for workers. And many saw Progressivism as a chance to reform the nation's moral behavior as well. One of their favorite topics was opposition to "strong drink."

The Progressive movement attracted numerous moral reformers who saw a chance to affect Americans' drinking habits through legislation. Many were members of the Prohibition party and the Women's Christian Temperance Union (WCTU). The WCTU, founded in 1874, was an organization that grew out of the efforts of earlier women activists who crusaded for liquor control—especially in the West. The most famous crusader was Carrie Nation, a six-foot-tall zealot who stormed into saloons with a hatchet, smashing anything in her way. The WCTU, under the effective, twenty-year leadership of Frances Willard, mobilized thousands of women nationwide to lead the fight for Prohibition. However, Willard's WCTU also advocated suffrage and other women's rights, thus antagonizing many powerful men who may have supported prohibition but did not want to be aligned with Frances Willard. This limiting factor served to promote the efforts of the most influential and vocal antiliquor organization of the era, the Anti-Saloon League.

THE ANTI-SALOON LEAGUE

The Anti-Saloon League, founded in 1893, has been described by some historians as the first successful single-issue pressure group in the United States. The League publicized the fact that alcoholism caused liver disease and other health problems. It claimed that the saloons that sold "booze" not only threatened the moral fiber of the nation and the family but also contributed to accidents, poverty, and industrial inefficiency. The leaders of the League sought to convince the nation that alcohol did more harm than good, had no redeeming social value, and should be banned by law.

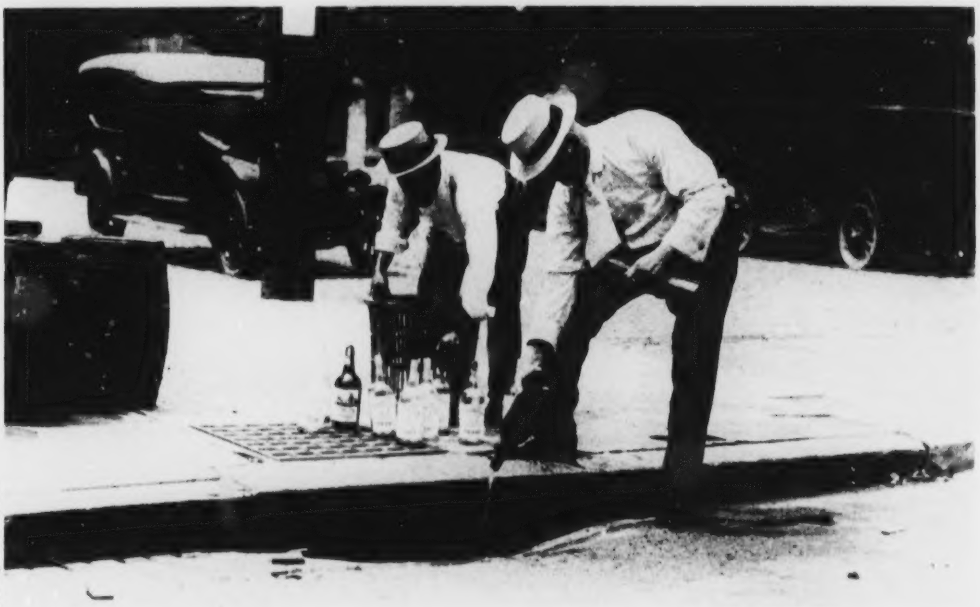
At first the League was very successful in getting Protestant churches to support its efforts to elect state and local candidates—called "drys"—who would vote to limit the sale and consumption of liquor in states, counties, and towns. In fact, by 1900, one-fourth of American citizens lived in local jurisdictions where such laws were in effect. By the time the Eighteenth Amendment went into effect in 1919, nearly three-fourths of all Americans lived in "dry" states and counties. But, despite these local laws, the Anti-Saloon League and other temperance advocates were convinced that the only way the consumption of alcohol was ever going to be curbed effectively throughout the whole country was by adding a Prohibition amendment to the Constitution. Therefore, in its Jubilee Convention in 1913, the Anti-Saloon League endorsed a national Prohibition amendment to the Constitution.

PASSING THE EIGHTEENTH AMENDMENT

The Prohibition party, Progressives, the Women's Christian Temperance Union, the Anti-Saloon League, and other reformers promoted their cause from the late 1800s through the 1910s with some success. But after the Anti-Saloon League endorsed a national Prohibition amendment in 1913, many prominent leaders got behind the cause, including former President William Howard Taft,

The Kansas State Historical Society

Carrie Nation was the scourge of barkeepers and drinkers in Kansas and throughout the Great Plains. A formidable, six-foot-tall woman, she would march into a saloon singing, praying, and smashing bar fixtures and bottles with her ever-present hatchet. Although receiving little support from the national temperance movement, her activities often made the front page of newspapers and probably speeded the passage of the Eighteenth Amendment.



Library of Congress

Federal agents of the Prohibition Bureau enjoyed some success in combating the illegal liquor trade. But the Bureau was grossly underfunded, and their numbers were too small to make much of a dent in the supply. At its peak, the Prohibition Bureau had less than 3,000 agents trying to catch bootleggers operating throughout the country and on every U.S. border and coast.

Supreme Court Justice Louis Brandeis, and President Woodrow Wilson. The 1916 elections produced two-thirds majorities favoring Prohibition in both houses of Congress. At that point, the passage of national Prohibition was simply a matter of time

In fact, opponents of Prohibition in Congress were often shouted down and accused of being unpatriotic. This was, after all, wartime, and the nation was preparing itself for possible entry into World War I. "Dry" members of Congress successfully passed a law declaring that alcohol was an essential war material that could not be used for domestic consumption and that grain was vital to the war effort and could not be distilled into alcohol (Lever Food and Fuel Control Act). In addition, strong anti-German feeling in the United States caused by the war in Europe spilled over into hostility toward domestic brewers, who were often of German descent. Fervent Prohibitionists proclaimed it unpatriotic to drink.

On December 18, 1917, Congress passed the Eighteenth Amendment and sent it to the states for ratification. On January 16, 1919, Nebraska became the necessary thirty-sixth state to ratify. One year after ratification, the manufacture, sale, and transport of intoxicating liquors was prohibited nationwide.

IMPLEMENTATION AND ENFORCEMENT

National Prohibition was implemented under the Volstead Act, which made it illegal for anyone to make, sell, or transport any drink that contained more than .5 percent alcohol by volume. The act banned the manufacture and sale of alcohol for beverage purposes; however, alcohol and similar products could be manufactured for commercial and industrial purposes. Congress also passed the National Prohibition Act, whereby each state could pass its own liquor control laws. Under this law, a person caught making, selling, or transporting alcohol—all commonly called bootlegging—could be subject to trial and punishment by both the national and state governments. Hundreds of breweries, distilleries, wineries, and their suppliers and retailers went out of business almost overnight. A few, however, managed to hang on by making medicinal alcohol and nonalcoholic beer called "near beer."

Despite the fervent Prohibitionist fever that swept the nation at this time, Congress never supplied adequate federal enforcement for the Volstead Act. For example, in 1922, Congress appropriated only $7 million to the Prohibition Bureau for nationwide enforcement. In 1920, there were only 1,520 agents in the Prohibition Bureau, and ten years later, less than 3,000 agents were trying to catch bootleggers and stop illegal liquor from coming across the borders from Canada, Mexico, and the Caribbean. In fact, in Detroit, just across the river from Canada, the liquor industry was second in size only to the automobile industry during the 1920s. At the same time, local law enforcement officials, especially in large cities, were often reluctant to arrest violators or punish those who were arrested. City police, prosecutors, and judges were not under much pressure from their constituents to enforce the law because support for Prohibition was weak in most cities. Plus, many influential people were making huge profits from bootlegging and paying bribes to city officials to ensure that those profits continued to flow.

National Archives

Al Capone was the king of the Chicago bootleggers. He and his gangsters made a fortune making and selling illegal liquor, but in so doing, set off a wave of violence previously unmatched in U.S. history. Capone was finally convicted of income tax evasion and spent five years in the famous federal prison on Alcatraz in San Francisco Bay.

SUCCESSES

Prohibition worked quite well at first. Per capita consumption of liquor dropped, arrests for drunkenness diminished, and the price of illegal liquor rose higher than the average worker could afford. Americans, who drank an average of 2.6 gallons per person annually before World War I, were drinking less than one gallon by 1930. In some rural areas, consumption fell almost to zero. Even in the cities, where there was much more resistance to the law, alcohol use dropped—especially among the poor. Prohibition was most successful in regions where temperance movements had historically flourished—such as the West. To some it looked like the "noble experiment"—as President Herbert Hoover once called Prohibition—was going to work. But, by 1925, Prohibition had broken down, especially in the cities where the desire for personal freedom overwhelmed law enforcement.

FAILURES

Despite some early successes, it soon became clear that Prohibition was not working. Even though the first commissioner of the Prohibition Bureau promised strict enforcement of the new law, violations were soon so rampant that authorities were overwhelmed. They simply did not have the money or the personnel to enforce the laws and stem the crime.

Inadequate Enforcement. Most Americans, especially city dwellers and middle- and upper-class people, simply refused to stop drinking once Prohibition took effect. To many, drinking became "in vogue." Fashionable people carried their booze in hip flasks and partied in illegal saloons called "speakeasies." And bootleggers were all too willing to supply the product. Alcohol was either smuggled in from abroad or illicitly manufactured in the United States. The imported liquor tended to be authentic, as indicated on the label, but alcohol coming from illegal domestic distillers could be dangerous and even fatal. Despite the risks, however, Americans drank some 150 million quarts of liquor a year in the 1920s—a $2-billion-a-year industry. In addition, thousands of Americans made their own beer, wine, and distilled alcohol. "Home brew," "bathtub gin," and "moonshine whiskey" flourished in all parts of the country.

Crime. The problems with enforcement and the ineffectiveness of the law were overshadowed by a general disrespect for Prohibition and the crime it spawned. Many city officials and police departments openly winked at bootleggers and speakeasy operators, and even when arrests were made, judges often handed out small fines. These public officials explained their actions by saying that they were only doing what most people in their cities wanted them to do. But more serious crime also occurred because of the trade in illegal alcohol.

Most authorities admit that Prohibition did not create organized crime—there had long been mob-controlled gambling and prostitution in the country—but organized crime became big business after it began making and selling illegal liquor. Mobsters built huge empires around the trafficking of liquor. The most famous of these gangsters was Chicago's "Scarface" Al Capone.

Alphonse Capone came to Chicago in 1920 and soon became the biggest of the bootleggers. Capone and his gang built and ruled his empire with bribes, intimidation, threats, and murder. He employed hundreds of gunmen who were willing to kill any rivals who tried to move in on his business. Violent deaths were common in most large cities as gangsters fought for control of the liquor business, and Chicago during the 1920s was no exception. More than 250 people were killed in gangland fighting in Chicago between 1920 and 1927. On Valentine's Day in 1929, seven members of the Dion O'Banion gang were gunned down by rival gangsters. Although Capone was suspected, no one was ever indicted for the crime.

Despite the violence, there were always people who were willing and eager to deal in illegal alcohol for the huge profits to be made. Capone had an income of $60 million a year at the height of his power and was generous in sharing it with his partners. He often referred to himself as a "businessman" who was simply providing a service that many Americans demanded. Although Al Capone's illegal and violent "business" dealings proved difficult for law enforcement officials to penetrate, he was finally convicted and jailed for income tax evasion in 1931. He spent five years in the federal prison on Alcatraz and died in 1947 from the effects of syphilis.

SECOND THOUGHTS

From the first day, Prohibition was never embraced by an overwhelming majority of Americans, but it is probably safe to say that when the amendment went into effect at least half the country supported some control over the manufacture and consumption of liquor. However, as problems of ineffective enforcement and crime became more apparent, much of the support for the amendment waned. Early advocates of Prohibition, many of whom were urban middle-class Progressives, first backed it because it seemed the "progressive" thing to do. They were

Chicago Historical Society

On Valentine's Day, 1929, seven members of the Dion O'Banion gang were gunned down in a northside Chicago garage by rival gangsters. O'Banion's men were part of the crime organization headed by Bugs Moran, one of Al Capone's rivals. Capone was suspected of ordering the "hit," but no one was ever brought to trial for the crime.

also the first to abandon support, realizing that the national attempt to legislate morality was not going to work. Therefore, when support for Prohibition collapsed in the cities—where it had never been especially strong—only rural, mainly Protestant Americans continued to embrace it. However, the people who wanted to keep Prohibition were still powerful, especially with elected officials, and many became even more vehement and outspoken in their support as the decade of the twenties went along.

Advocates of Prohibition distrusted urban Americans, looking upon them as liberals who were encroaching upon and disrupting their old way of life. In short, urban and rural value systems clashed head-on in the 1920s, as rural Americans wanted to hang on to what they had while urban dwellers wanted to take advantage of the new diversions that were now available to them. Journalist Walter Lippmann wrote in 1931, "The high level of lawlessness is maintained by the fact that Americans desire to do so many things which they also desire to prohibit."

But the crime and lawlessness took its toll, and by the end of the 1920s, serious thought was being given to repealing the Eighteenth Amendment. More and more "wet" candidates were being elected to Congress. New York Governor Alfred E. Smith, the Democratic presidential candidate in 1928, made his "wet" position clear, although his victorious Republican opponent, Herbert Hoover, continued to support Prohibition to the end. By 1932, however, the platforms of both parties favored repeal.

THE TWENTY-FIRST AMENDMENT

> In the beer town of St. Louis, steam whistles and sirens sounded at midnight, while Wisconsin Avenue in Milwaukee was blocked by mobs of celebrants standing atop cars and singing "Sweet Adeline." H.L. Mencken downed a glass of the new beer and assured anxious connoisseurs it was a worthy brew.
>
> *Time*, April 17, 1933

The above paragraph describes the celebrations that took place on April 7, 1933, when beer was sold legally in the United States for the first time since Prohibition was enacted. Just as there had been joy and celebration in the nation when Prohibition went into effect, so were there parties when people could legally "take a drink" again. Although only fourteen years had passed between the two celebrations, the nation admitted that it had made a mistake. Of course, Prohibition was a mistake not easily rectified because its supporters, by pushing for passage of the Eighteenth Amendment, had made it part of the Constitution, and now its opponents had to follow the same constitutional procedures to take it out. They eventually did so by passing the Twenty-first Amendment.

THE MOVE TO REPEAL

The ineffectiveness of Prohibition and the national crime wave that it spawned convinced many Americans that the "noble experiment" was not working. More and more people began to publicly call for repeal of the Eighteenth Amendment. But repeal was not easy. Many prominent politicians were reluctant to upset their "dry" supporters, who were still well organized, committed, and outspoken. The drive to prohibit alcoholic beverages began as a moral reform movement in the late 1800s and early 1900s and eventually became a political cause. Repeal, however, was a political cause from the start.

"Wet" politicians during the 1920s became more vocal as the abuses of Prohibition became more obvious. Yet during much of the decade, they were not successful in becoming the majority. In the 1928 presidential campaign, Democrat Al Smith, a "wet" Catholic from New York, gained considerable support from urban dwellers who wanted Prohibition repealed; but Smith was soundly defeated by "dry" Republican Herbert Hoover at the polls.

Most historians think that Smith's being a Catholic hurt him far worse than his proliquor stance. However, another factor for his failure in 1928 was that the times were good. People were living in the "Roaring Twenties" and enjoying prosperity. They did not want to rock the boat by getting rid of the party of Harding, Coolidge, and Hoover—the presidents of the decade. Therefore, many who favored the repeal of Prohibition voted for the "dry" Hoover. But when the stock market crashed in October 1929, and the nation plunged into the Great Depression, Hoover's days in the White House became numbered. Controversy over Prohibition was soon overshadowed by rampant unemployment and hard times.

THE ELECTION OF 1932

With the nation in economic depression, Prohibition probably should have been the least of President Hoover's concerns. But when a commission called by his attorney general to study the enforcement of Prohibition reported that enforcement had broken down, Hoover still insisted on calling the Eighteenth Amendment an "experiment, noble in motive and far-reaching in purpose." So when the election of 1932 rolled around, Hoover's Democratic opponent, Franklin D. Roosevelt, used Prohibition as one of his many weapons to attack Hoover and to gain the support of the American public.

With Franklin Roosevelt's blessing, the Democratic platform of 1932 eagerly called for repeal of Prohibition. Even President Hoover's Republican platform advocated repeal, although not as enthusiastically as the Democrats. In fact, the delegates to both conventions in 1932 spent more time arguing about Prohibition than they did about unemployment. John Dewey, the eminent educational philosopher, wrote, "Here we are in the midst of the greatest crisis since the Civil War, and the only thing the two national parties seem to want to debate is booze."

The Great Depression had made the outcome of the election a foregone conclusion—Roosevelt won by a landslide—and repeal of Prohibition was probably not the major factor. However, Roosevelt immediately asked Congress for an early end to the "noble experiment." Even before Franklin Roosevelt was inaugurated, the lame-duck Congress voted to repeal the Eighteenth Amendment by passing the Twenty-first Amendment and sending it to the states for ratification.

EARLY ACTION BY FDR

While the Twenty-first Amendment was making its way through state conventions for ratification, new President Franklin Roosevelt asked his overwhelmingly Democratic Congress to repeal the Volstead Act by legalizing beer of 3.2 percent alcoholic content. His Beer-Wine Revenue Bill (low-alcohol wine was also tacked on to the bill) was designed to get low-alcohol liquor to the people even before the Twenty-first Amendment was ratified, while at the same time raising some tax revenues levied on the liquor. Debate on the bill in Congress touched off raucous argument, with impatient members of Congress chanting, "Vote—vote—we want beer." The bill passed, and Roosevelt signed it on March 22, 1933. On April 7, the "wets" celebrated with their first legal beer in fourteen years, presenting a symbolic case of the "three-two brew" to Al Smith.

RATIFICATION AND IMPLEMENTATION

The Twenty-first Amendment was passed by Congress in February 1933 and sent to the states for ratification. Section One of the amendment contains simple language. It states: "The Eighteenth Article of Amendment to the Constitution of the United States is hereby repealed." However, Section Two gave a state, territory, or U.S. possession the right

Library of Congress

Franklin D. Roosevelt, campaigning on a Democratic platform that promised relief from the effects of the Great Depression and the repeal of Prohibition, defeated President Herbert Hoover by a landslide in 1932. By the time Roosevelt took office in early 1933, the Twenty-first Amendment repealing Prohibition was making its way through state conventions for ratification.

and the power to prevent liquor from being imported into or used within the state. Thus, if the people of a state want to ban intoxicating liquors, they may do so, without fear of violating Congress's power over regulating interstate commerce.

The third section of the Twenty-first Amendment puts a seven-year time limit on ratification by the states, but one of its most interesting features provides that the states must ratify by approval of state conventions. The Twenty-first Amendment is the only one to be ratified by state conventions; all other amendments—up to and since that time—have been ratified by state legislative assemblies. However, getting approval for an amendment through the necessary three-fourths of the state legislatures has proven to be slow, sometimes taking several years. One reason for the delayed ratification process is that state assemblies have a great deal of other business to attend to, and ratifying a constitu-

THE SLANG OF PROHIBITION

Few periods in U.S. history have contributed as much colorful slang to the language as Prohibition. **Booze,** derived from a Dutch word for drink, was made by **moonshiners** who did their work at night. The tool of the moonshiner's trade was the **still.** A still was a fairly sophisticated device used to distill alcohol from grain, usually corn. Although private ownership of stills was illegal during Prohibition, government agents seized nearly 700,000 of the **cookers** in the 1920s. Parts of Chicago were said to have had over 100 stills per block. And the people who hauled the illegally made alcohol to "market" were called **bootleggers.** They got their name from their practice of concealing a bottle in the leg of a high boot.

A powerful clear and unaged version of **corn likker** was called **white lightning.** Other types of booze made their debut during Prohibition. **Bathtub gin** was not made in a bathtub. Rather, entrepreneurial bootleggers filled gallon jugs with one-third grain alcohol, two-thirds water, and a bit of juniper extract and glycerine for flavor, and sold it as gin. One legal beverage during Prohibition was **near beer.** Near beer was merely regular beer with the alcohol removed. However, legal near beer often became illegal **needled beer** after receiving an injection of grain alcohol with a hypodermic needle through the beer bottle's cork.

Much of the illegal alcohol was unpalatable and even dangerous. However, liquor that was smuggled in from Canada and the Caribbean was often **the real McCoy.** A successful bootlegger and **rumrunner** named Bill McCoy ran a fleet of boats that smuggled liquor ashore in New York and Boston. McCoy's liquor had a reputation for being authentic and of high quality—hence the slang. To cut the taste of bad liquor and to hide its smell on the breath, most people mixed the stuff with soft drinks. The soft drink industry boomed during Prohibition. Exotic **highballs** and **cocktails** were served to customers at **speakeasies.**

The speakeasy got its name from the hush-hush atmosphere associated with selling illegal liquor. Customers were **eyeballed** through a peephole in the door of the speakeasy before they were admitted. A password like **"Joe sent me"** may have been necessary to get in. Speakeasies helped to alter the social and moral culture of the country because they, unlike their predecessors—saloons—freely admitted women. **Sheiks** took their **shebas** to speakeasies. Thus, women began to bob their hair, shorten their skirts, smoke cigarettes, and dance the Charleston. And too much booze made people **blotto** (drunk).

Speakeasies operated quite freely in most cities, but they were constantly wary of being raided by agents of the Justice Department's Prohibition Bureau. Even these **G-men** (government men) contributed to the slang of the day. Many were simply referred to by the generic names of **Izzy and Moe.** Izzy and Moe were really Prohibition Bureau agents Izzy Einstein and Moe Smith. Einstein and Smith gained reputations as zealous lawmen who made more than 3,000 arrests between them, often using clever disguises to gain access to speakeasies.

And finally, organized crime also contributed to the language of Prohibition. Capone's men favored the **Tommy gun** or the **typewriter**—both nicknames for the Thompson machine gun. The round magazine of the Tommy gun, capable of holding up to 100 rounds of ammunition, was called the **ukulele.** Capone's nemesis was a G-man named Elliot Ness, who bragged that his men would never take a bribe; hence, they were known as **untouchables.**

tional amendment may not have high priority. Therefore, Congress, when approving the Twenty-first Amendment, was hoping to speed up ratification by calling together state conventions that had only one piece of business to consider: repealing Prohibition. The necessary number of states ratified the amendment by December 5, 1933, and it went into effect on that day. The "noble experiment" was finished.

MODERN IMPLICATIONS

Historians and political scientists like to point to Prohibition as an example of a clash of cultures in which the modern secular culture of the 1920s conflicted with the older, more traditional culture of earlier times. The former was made up of affluent, mostly urban middle-class Americans who were adopting a new, uninhibited lifestyle. The latter was a society of poorer, rural, more provincial people who wanted to hang on to traditional values and customs and felt threatened by modern thinking. This conflict almost immediately doomed Prohibition to failure because the urban middle class was growing rapidly during the 1920s and 1930s while rural populations were declining.

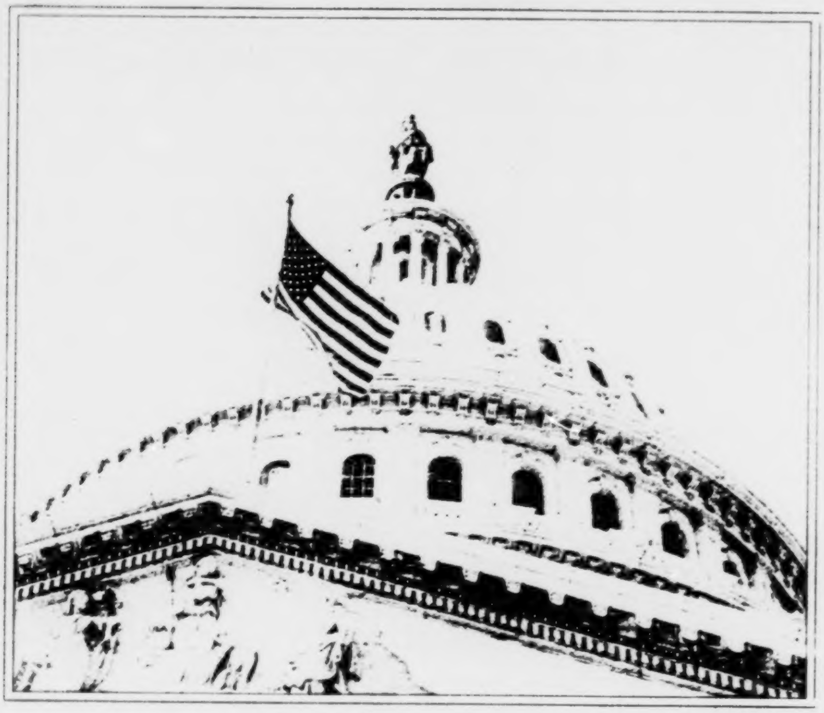
Some have said that the Eighteenth Amendment was a classic example of an abuse of government power, where a legislative majority sought to regulate conduct it found offensive without really considering the feelings of the people who saw nothing wrong with that conduct in the first place and, in fact, enjoyed it. Many Americans resented not being able to legally take a drink in their own homes and being told they could not do so in public if they so desired. Even though the evils of alcohol were well documented, experience had already shown that local and state laws could effectively control its manufacture and sale and that dealing with it nationally by amending the Constitution was probably not necessary.

Therefore, when mention is made of adding amendments to the Constitution today, one of the first concerns centers on whether the amendment will interfere with personal freedom. For example, talk of adding an amendment that would ban abortion in the United States causes libertarians to ask if such an amendment would deny the personal freedom that so much of the Constitution supports. Or, would adding an amendment allowing prayer in public schools be insensitive to those students in the classroom who do not want to participate? Would such an amendment conflict with the religious freedom guaranteed in the First Amendment? Many Americans are opposed to abortion, and millions more would like to see prayer allowed in public schools, but past experience with Prohibition has demonstrated the difficulty of regulating the behavior of millions of less-than-willing participants.

The failure of Prohibition is sometimes pointed to by those who call for legalizing drugs. They cite the similarities between the crime wave brought on by banning liquor to the crime problems associated with drug abuse. One of their arguments is that if drugs were legalized, huge profits would be taken out of the trade, crime connected with the drug trade would drop, and the government could tax drugs and regulate their distribution. They use the example of Prohibition and its repeal to support their arguments. Opponents of decriminalizing drugs counter by saying that a vast majority of Americans do not use drugs and have no desire to, whereas during Prohibition, millions of people—perhaps more than half the population—used, and wanted to use, alcohol.

The Twenty-first Amendment is unique because it repeals an earlier amendment. Some ask if other amendments will ever be repealed. Throughout history, there has been little serious talk about getting rid of any other constitutional amendment. Only the Twenty-second Amendment, which limits the president to two terms, has been mentioned as a possible candidate for repeal, and little has ever come of it. Americans have always been reluctant to tinker with their Constitution, feeling that it is too sacred to change with abandon. Thus, proposals for amendments come and go. Many have not been frivolous, and fairly large numbers of people have supported their addition, but when talk gets serious, most people opt to let lawmakers deal with those issues rather than making them part of the Constitution.

THE CONGRESS



CHAPTER 2

THE CONGRESS

The first and longest article of the Constitution deals with Congress. Most of the powers of the national government are delegated to Congress, indicating that the framers of the Constitution intended for Congress to be the dominant institution among the three branches of government. But the influence of Congress has varied throughout American history, often depending on who occupies the White House. The articles in this chapter explore Congress's power under the Constitution "to make all laws."

The most important official in the legislative branch is the speaker of the House of Representatives. Speaker Thomas S. Foley traces the evolution of the office, from its roots in the British House of Commons, to the zenith of its power in the early 1900s, to the subsequent limits that created its contemporary role. Speakers have many functions, among them to preside over the House, to lead their political parties, and to represent their own congressional districts.

Political parties are an important part of how Congress does its business. Representative Robert H. Michel, the House Minority Leader, notes that although political parties are not mentioned in the Constitution, they are instrumental to the passage of legislation. Political parties provide an institutional framework through which legislators with shared values can achieve common goals. Party politics in a democracy may at times be messy, says Representative Michel, but it is still preferable to "the iron rule of one-party dictatorships."

What's life like for a member of Congress? Representative Constance A. Morella provides an inside look at what a congresswoman does and how she deals with her constituents. Representative Morella's district in the Maryland suburbs of Washington, D.C., is so close to Capitol Hill that she is never far away from her constituents, unlike many of her colleagues who must fly back to their home dis-

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tricts every weekend. Responding to constituents' requests for help is a significant portion of her job.

Congressional staff play an important role in making public policy, as Robert L. Mallett, a former legal counsel to Senator Lloyd Bentsen of Texas, illustrates. Aides gather and analyze information, brief legislators, prepare for hearings on proposed bills, issue reports on laws that are adopted, and work with constituents. Although some critics charge that Congress has become "a government of staffs," Mallett believes that congressional aides provide Congress with an independent source of information from the executive branch it oversees—whose staff vastly outnumbers Congress's.

Columnist George F. Will and congressional scholar Norman Ornstein square off on the issue of term limits. Will argues that Congress has become a "professional political class" of career politicians who are more worried about job security than the good of the country. Term limits, says Will, would create competition in politics much as antitrust policy creates competition in economics. But Norman Ornstein maintains that filling Congress with "enlightened amateurs" would only increase the power of special interests and the other branches of government. Under term limits, Ornstein argues, legislators would have no incentive to consider long-term policy, because they would always be looking for another job.

To examine Congress at work, this chapter's case study follows the 1991 Crime Bill through the many stages of the legislative process. In an attempt to deal with the soaring rate of violent crime, Congress considered various anticrime proposals including such issues as capital punishment, gun control, and the constitutional rights of criminal suspects. The bill provides an excellent example of how the president and the Congress, the House and the Senate, the Democrats and the Republicans must all work together to get legislation passed.

Criticism of Congress is nothing new. Pundits have enjoyed poking fun at the nation's legislature since the day the first House convened on April 1, 1789—April Fools' Day. But although many Americans criticize Congress as a whole, they generally approve of their own representatives. For all its perceived faults, Congress is still representative democracy at its best.

Close Up Foundation/Renée Bouchard

Office of the Speaker

Speaker Thomas S. Foley

(D-Wash.) has served in the House of Representatives since 1965. He became speaker of the House in 1989.

THE NATION'S CHIEF LEGISLATOR

The speaker of the House of Representatives occupies the highest legislative position in the country. He is widely viewed as the most influential figure in the House and symbolizes the power and authority of the House of Representatives.

Article I, Section 2 of the Constitution states simply that "[t]he House of Representatives shall chuse their Speaker and other Officers." However, the Constitution does not elaborate on the speaker's duties or responsibilities. It does not, in fact, even require that the speaker be a member of the House, although every speaker has been. As a consequence, the office has been developed and defined largely by the forty-nine persons who have held it, and the effectiveness of any particular speaker has depended on many intangible factors.

Frederick A.C. Muhlenberg, a Pennsylvania minister, was the first speaker of the House. He and other early speakers drew on established colonial precedents, including those derived from the British House of Commons, in formulating rules and procedures for the early Congress. The title "speaker" itself has its origins in the House of Commons, which called its presiding officer the speaker because that individual acted as its spokesperson to the Crown. And like the speaker of the House of Commons, Muhlenberg and the other early speakers served primarily as impartial referees on parliamentary questions.

This era ended in 1811 when Henry Clay was elected to the speakership on his first day as a member of the House (an achievement unlikely ever to be duplicated). Using the various administrative powers available to the speaker, such as the power to appoint committee chairs, Clay created a new role for the speaker as a national political leader. He took command of the substance of the House's legislative agenda. He instituted new procedures for limiting floor debate and forcing votes. Unlike his predecessors, he insisted that the speaker retained all rights as a member of the House to vote and engage in debate.

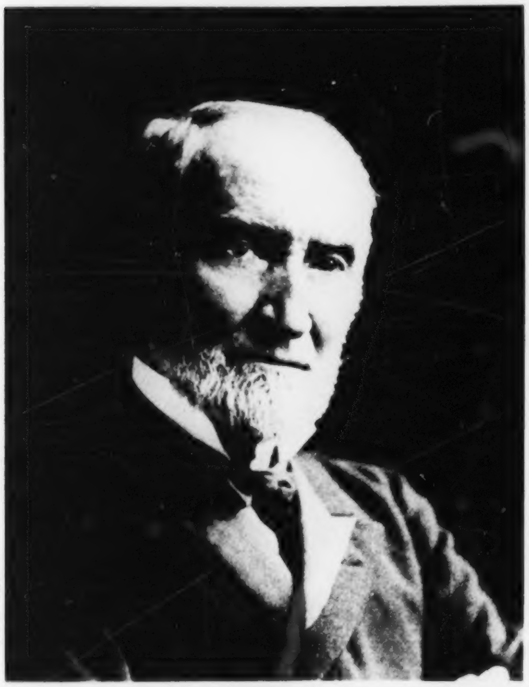
Speaker Clay's influence was immense in his day. Indeed, many people thought he was the most powerful man in the country. He is considered the first "modern" speaker and is still regarded as one of America's greatest speakers.

The speaker's political power evolved gradually during the nineteenth century until the office had acquired virtually omnipotent and unchallenged authority. Speakers appointed all standing committees and named their chairs. They selected members of the Rules Committee and served as its chair. The speaker had nearly unlimited command of floor proceedings.

His power was so vast that, upon receiving a request for a copy of the rules and regulations of the House, Speaker Thomas Brackett Reed of Maine (also known as "Czar Reed") replied by sending a picture of himself. Speaker Reed also liked to announce his intentions to Democrats on the Rules Committee by stating, "gentlemen, we have decided to perpetrate the following outrage."

In 1910, during the reign of Speaker Joe Cannon of Illinois, the House reduced many of the speaker's powers. They removed the speaker from the Rules Committee. They eliminated the speaker's power to appoint unilaterally the standing House committees and their chairs. They restricted the speaker's ability to use the "power of recognition" to control floor proceedings. When members wish to speak on the House floor, they must first address the presiding officer and seek recognition. Under most circumstances, the speaker may ask, "for what purpose does the gentleman or gentlelady rise?" Today, the speaker has some latitude in deciding whether to recognize a member for the purpose stated, but in Speaker Cannon's and Speaker Reed's day, that power was nearly unchecked.

In the modern era, the speaker still has great—though not limitless—influence over the proceedings of the House and, as a consequence, on national policy. He or she is elected by a vote of the entire membership of the House of Representatives on the first day of each new Congress. Although votes in this election are typically cast along strictly partisan lines, the fact of the election underscores the speaker's obligation to serve all members.



Library of Congress

Joseph G. "Uncle Joe" Cannon (R-Ill.), who served as speaker of the House from 1903 to 1911, was the most powerful speaker in history until stripped of his powers in 1910.

Today's speaker serves many different functions. The speaker is, most prominently, the presiding officer of the House. The speaker is the leader of his or her political party in the House. And the speaker is also an elected member of the House, representing a congressional district.

As the House's presiding officer, the speaker presides over its meetings, maintains order, and enforces decorum during debate. The speaker administers the oath of office to all newly elected members. The speaker is also responsible for referring bills and resolutions to the appropriate committees for their consideration.

During legislative action, the speaker states to the House those questions that require a vote and announces the outcome. The speaker appoints members to serve on conference committees with the Senate. The speaker interprets and applies House rules and procedures. Perhaps most importantly, the speaker controls scheduling of bills for floor debate. The speaker also signs bills and resolutions agreed to by the House and receives official communications from the president, the Senate, government agencies, and the courts.

As the leader of his or her party in the House, the speaker has considerable influence in assigning members to standing committees. The speaker has sole authority to appoint members to select and joint committees, as well as numerous boards and commissions. Finally, by nominating members to the Rules Committee, the speaker retains substantial influence over the timing and conditions under which legislation will be considered by the House. The speaker also serves as his or her party's spokesperson with the media and in floor debate.

As a member of the House, the speaker has all the rights, privileges, and responsibilities to local constituents that other members do. However, the speaker by tradition exercises the right to speak and to vote only in rare and important instances.

The speaker's various roles often present difficult dilemmas. As presiding officer, the speaker must protect the procedural rights of all members, regardless of party. As party leader, however, the speaker tries to achieve that party's goals in Congress. And as a member of the House representing a congressional district, the speaker may seek goals in ways that conflict with the roles of either presiding officer, party leader, or both.

These conflicts can be especially acute when the White House and the Congress are controlled by different parties. The speaker must then attempt to accommodate not only the wishes of the congressional members of his or her party, but also that party's presidential aspirations. Speakers will resolve these conflicts differently depending on their personalities, their skills, and the public climate.

The speaker's first responsibility is to his or her congressional district, however; no one has ever been speaker without first being a member of Congress. It is also true that speakers are nominated to the office by members of their congressional party and elected along strictly partisan lines. And yet, the greatest speakers have derived their power from their unique understanding of the House as an institution. In the early years of the republic, when speakers acted primarily as parliamentary umpires, they were often elected with little or no experience in the House. In the modern era, however, only senior members with wide experience in the House and great understanding of its complexities have attained the position.

Under the Constitution, the Congress is one of three equal branches of government. As the leader of one house of that branch, the speaker is in title, if not also in fact, a national leader. The speaker is second in the line of succession to the presidency. If the president resigns, dies, or is disabled in office, and there is no vice president available to succeed the president, the speaker would become president of the United States. As Speaker Reed put it, the speaker has "but one superior and no peer." Given this power and position, it is curious that only one speaker, James K. Polk of Tennessee, has been elected president. There are ample explanations for that fact, but perhaps it is best explained by noting that success in the two offices requires very different skills and temperaments.

In more than 200 years, forty-nine men (as yet no women) from twenty-one different states have held the title and office of speaker of the U.S. House of Representatives. Massachusetts has had the most speakers, eight. Only one member from west of the Rockies has been speaker, but as the nation changes that will certainly change also.

Sam Rayburn of Texas held the office longer than any other speaker, seventeen years and two months, more than twice as long as the great Henry Clay (though longevity was only one measure of his greatness). Theodore Pomeroy of New York had the shortest tenure, one day. They and the other forty-seven speakers shared an uncommon love and understanding of the House of Representatives. They also shared the proudest title in any free legislature: speaker of the House.

PARTY POLITICS AND CONGRESS

Office of Representative Michel

Representative Robert H. Michel

(R-Ill.) is the minority leader of the House of Representatives. He has served in Congress since 1957, representing the eighteenth district of Illinois.

Political parties are not mentioned in the U.S. Constitution. They have no official status in our system of government. In fact, beginning with the authors of the Constitution, Americans have been suspicious of parties and often downright hostile to them.

President George Washington (who, along with James Madison, called parties "factions") stated in his Farewell Address that parties would become the means by which "cunning, ambitious, and unprincipled men will be enabled to subvert the Power of the People. . . ."

Yet despite the distrust evident in Washington's words, and despite the lack of an official mandate, political parties immediately became part of the American experiment, beginning with the Federalists and the Democratic-Republicans. Today parties are a permanent and important part of our political system, particularly in Congress.

As a Republican member of the House of Representatives for thirty-five years, I have seen the two-party system at its worst and at its best. I have witnessed petty squabbles between parties, and I have seen the two major parties engage in a historic and well-conducted House debate on the Persian Gulf War.

Like it or not—and on the whole I like it—the two-party system in Congress is here to stay. Let me offer some reasons why I believe that in the long run, party politics in Congress is a good thing for America.

A NATURAL DEVELOPMENT IN A DEMOCRACY

I often hear folks say: "Why do we need parties? Why doesn't a legislator just vote as conscience dictates?" It has been my experience that almost invariably legislators do vote according to conscience. But, not surprisingly in a pluralistic democracy, conscience may lead one group of Americans fervently to support a policy and another to oppose, just as fervently, the same policy.

Thus, a party is formed around some principle or group of principles commonly shared by like-minded citizens who believe their power to influence political events will be increased by uniting under one banner. The Republican party, for example, was created just before the Civil War to meet the political needs of Americans opposed to slavery.

But a political party is like any other institution created by fallible—and fickle—human beings. Over a period of years, the party's members can forget or ignore the original principles that inspired the creation of the party. When that happens, the party ceases to serve a useful political function and becomes an impediment to the public good.

As long as a party retains the capacity for reform and renewal, it will grow and prosper. But once party members support the party just because that is what they have always done, out of habit or out of complacency, the party begins to lose its attractiveness to the American public—and its reason for being. This is why it is so important for a party to attract young Americans of each generation. Without the energy, enthusiasm, idealism, and desire for change provided by the young, a party will decline and eventually die.

POLITICAL PARTIES IN CONGRESS

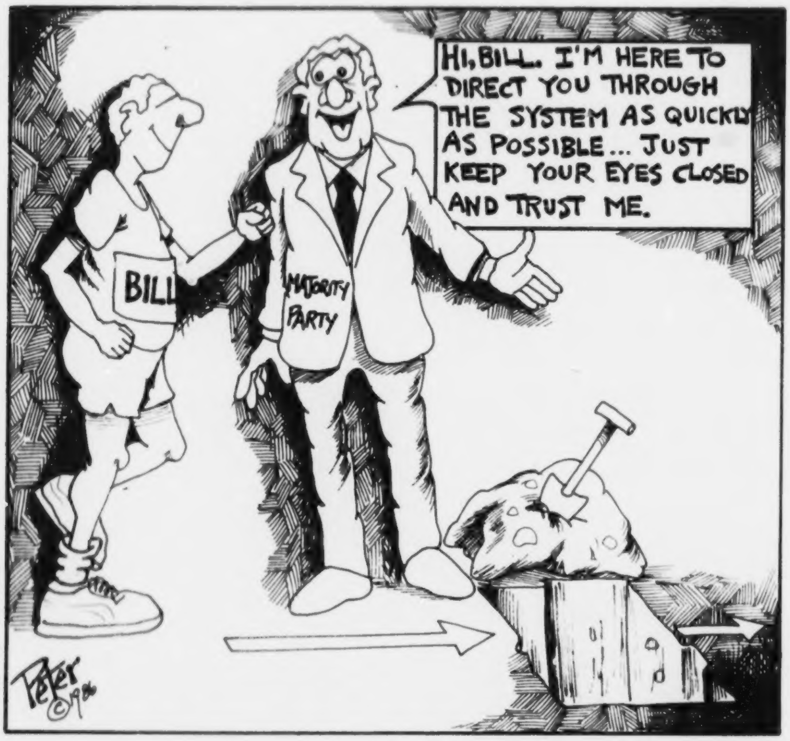
One of the first things you learn in Congress is that politics is a team effort. In a democracy, unless you have like-minded fellow citizens willing to work together for a common goal, individual efforts are often wasted. A party provides an institutional framework within which an individual can become part of a team guided by shared principles and values. The two-party system allows those who believe in the same political principles to work more effectively toward shared goals.

In the House of Representatives, we don't have the strict discipline that marks the party system in a parliamentary democracy such as Great Britain. This can make it difficult for party leaders to persuade party colleagues to vote for certain measures before the House, as I can tell you from experience. In the House, leaders of both parties must take what I call a "collegial" attitude toward their party's members, treating them as party colleagues to be consulted rather than as political robots to be programmed.

PARTY DISCIPLINE

Each legislator has to decide exactly what to do in a circumstance where he or she differs from a party position. But I believe there are guidelines that might help a legislator make a reasonable decision:

- If your disagreement is over some technical legislative matter that doesn't affect your conscience, you have the choice, in my view, of either supporting or not supporting it. Sometimes it is good to stay with the party in the hope that your willingness to cooperate on this issue out of party loyalty might make it easier for your colleagues to join you on other, tougher issues in the future.
- If your disagreement concerns a matter of specific concern to your constituents, your first duty is to them, as long as the choice to side with them does not violate your conscience or work against what you perceive to be the national interest.
- If your disagreement is a matter of conscience, you have the moral obligation to vote against the party.


HI, BILL. I'M HERE TO DIRECT YOU THROUGH THE SYSTEM AS QUICKLY AS POSSIBLE... JUST KEEP YOUR EYES CLOSED AND TRUST ME.
BILL
MAJORITY PARTY
Peter ©986

Close Up Foundation/Peter

- If you find yourself voting time after time against your party's positions, you should either attempt to reform your party from within or, if that is not possible, switch parties.

A NECESSARY INGREDIENT OF DEMOCRACY

Until the 1990s, eastern Europe and the former Soviet Union were without politics as we understand that word, i.e., without the open, often heated, and sometimes not very edifying disagreements we have in a democracy. But as we have seen in recent years, the people of those countries prefer the messy, often chaotic problems of democracy to the iron rule of one-party dictatorships in which all disagreement is stifled, all debate stage-managed, and all ideals outside the official party's dogmas forbidden.

Yes, party politics can often be narrow, mean-spirited, doctrinaire, and ineffective. And yet, over more than 200 years, this system has produced great leaders such as Abraham Lincoln, Franklin Roosevelt, Speaker Sam Rayburn, and Senator Everett Dirksen. It has served as the practical means through which our local communities and our legislatures, on state and federal levels, have debated the way we should govern ourselves. Self-government is difficult, and in a democracy like ours, with so many viewpoints and so many interests to consider, often we may forget the common good amidst partisan fighting. But on the whole, I believe the two-party system, for all its faults, has been good for Congress, and good for America.

Office of Representative Morella

Representative Constance A. Morella

(R-Md.) was elected to the House of Representatives in 1986. Her congressional district includes the Maryland suburbs of Washington, D.C.

A CONGRESSWOMAN AND HER CONSTITUENTS

I feel fortunate to represent the very diverse eighth district of Maryland. My constituency includes a broad spectrum of people representing virtually every background: teachers, doctors, secretaries, storekeepers, military personnel, scientists, retirees, students, artists, lawyers, pilots, social workers, construction workers, computer programmers, nurses, corporate executives, other members of Congress, and some people in search of work.

The eighth district includes the cities of Rockville, Wheaton, and Silver Spring, with their large ethnic communities; Potomac and Chevy Chase, with their spacious suburbs; Bethesda, with its research hub that includes the U.S. Naval Hospital and the National Institutes of Health (NIH); and Gaithersburg, with its National Institute of Standards and Technology (NIST).

It is a district full of contrasts. The Nuclear Regulatory Commission is headquartered in Rockville, while Garrett Park, a nearby community, is a nuclear-free zone. Though it is next door to Washington, D.C., the eighth district has hundreds of farmers in its outer reaches. At the busy center of downtown Bethesda, one can find the white-picket-fenced Women's Farmer's Market and buy farm-fresh eggs, meats, milk, and baked goods. In addition to its high-technology corridor and its farms, my district in Montgomery County has its share of tiny communities and towns as well, such as Friendship Heights, Spencerville, and Glen Echo.

The majority of my constituents are Democrats, some are Republicans, some are independents, and some are active in smaller political parties. They differ in ethnic background, religion, and lifestyle. The 654,000 people in my congressional district reflect a wide range of interests, with concerns that span every issue affected by the federal government.

In fact, in its diversity, my district has something in common with every district in the country. Knowing this allows me to appreciate the problems of our country as a whole and increases my ability to work effectively with other members of Congress.

Though I have much in common with other members, I also have a number of differences because my congressional district is so close to Capitol Hill. My daily routine is a good example.

The House of Representatives normally votes on Tuesdays, Wednesdays, and Thursdays from

January through July. August is a recess month. After reconvening in September, the House tries to recess by the first or second week of October, but often does not finish with business until November or December.

Every member has at least two offices and two personal residences—one in the Washington, D.C., area and one in his or her congressional district. Most members of Congress use Fridays and the weekends to fly back to their home districts and meet with constituents. Mondays are usually spent in Washington getting ready for the legislative week.

Because I live only a half hour away from the Capitol, I drive back to my own district every evening. Every day, I try to participate in community functions, attend breakfast meetings, and meet those who visit my office.

With more than a half-million citizens in my district, it is difficult to meet all of them. However, I have not given up trying. I sponsor town meetings every few months and invite all constituents to join me. I regularly organize seminars on financial aid, health benefits, and issues of the elderly.

Like other members, I have a district office, in addition to my office on Capitol Hill, which helps me keep in touch with constituent concerns. The district office staff handles the problems that my constituents may be having with agencies of the federal government. Caseworkers with hands-on experience untangle knots of red tape within the bureaucracies of the Internal Revenue Service, Immigration and Naturalization Service, Social Security, and Department of Veterans Affairs. My staff opens lines of communication, mediates disputes, and efficiently resolves problems.

About half of my employees are based in the district office, providing constituent services by telephone, letter, or in person. Hundreds of people call or visit my district office each month, requesting assistance, giving opinions, or asking for information.

Between my two offices, I receive several hundred letters and almost 1,000 phone calls a week—about twice the number of other representatives. I take my phone messages and mail very seriously. Unlike vague data from polls, personal and written contact gives me direct, reliable information on my constituents' opinions. Every piece of correspondence is answered in either Washington or the district office.

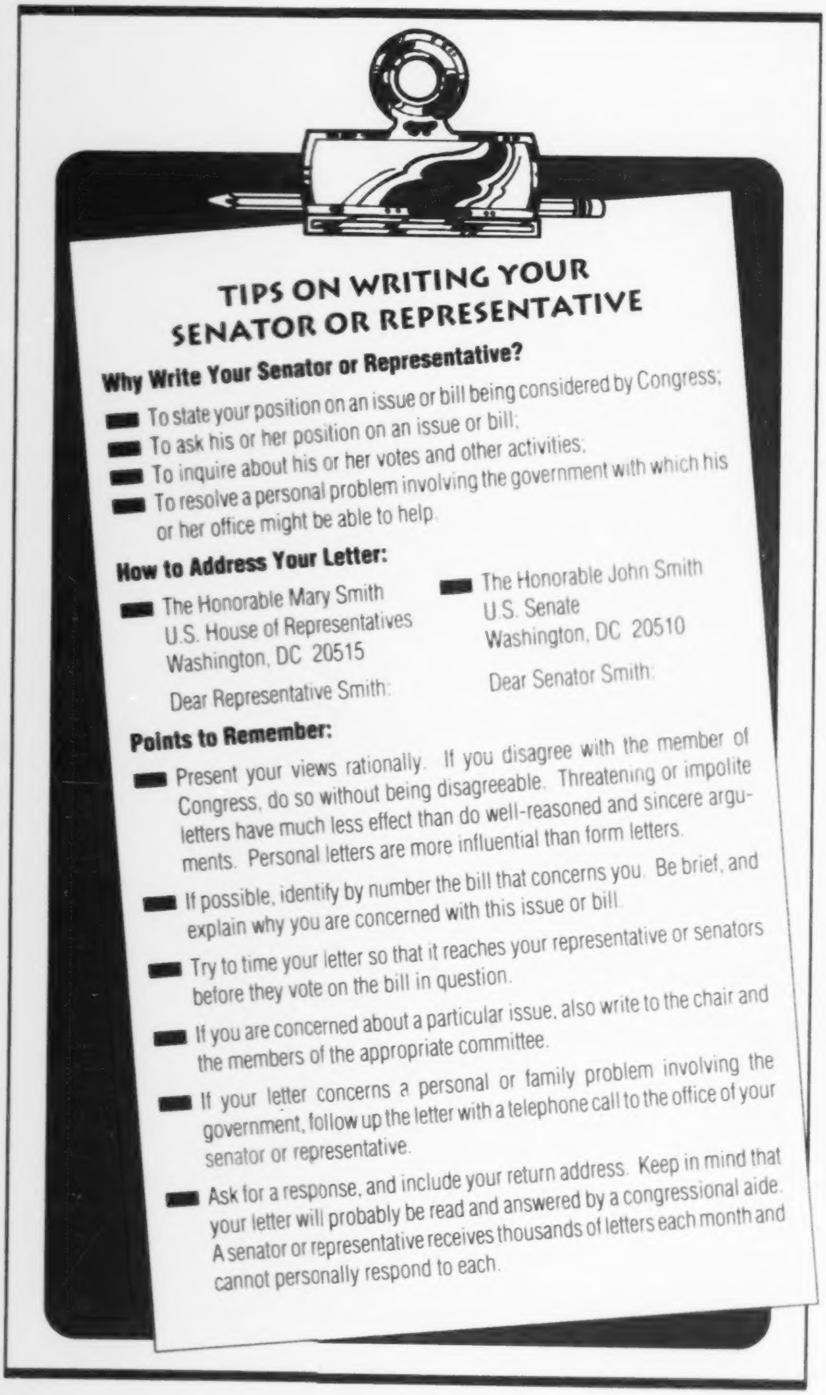
My office handles an incredible variety of requests. When a new president is sworn in, many constituents contact me to nominate them for presidential appointments, including ambassadorships and cabinet positions. More frequently, with a few weeks notice, we arrange tours of the White House, the Bureau of Engraving and Printing, and the Supreme Court. Upon constituents' request, we can even arrange for an American flag to be dedicated and flown over the Capitol dome.

The correspondence dealing with legislation goes to my Washington office. There, a legislative assistant confers with me to draft responses that reflect my thinking on the issues in question. We deal with every issue, from defense, education, and housing, to banking, women's issues, and civil rights. Luckily, in addition to my fulltime staff, my office usually has four or five interns working for school credit. I could not keep up with the mail volume without them. Before any correspondence is sent out of my office, I review it carefully.

In addition to representing my constituents, I also legislate on their behalf. While I am allowed to propose any type of bill, I have found that legislation that relates to my committee assignments has the best chance for consideration. This makes committee membership very important. I serve on two full committees that each have two subcommittees on which I also serve.

With a constituency of almost 80,000 active and retired civil servants, I chose to serve on the Post Office and Civil Service Committee upon my first election. For many civil servant constituents, pocketbook issues are critically important, so I requested membership on the committee's Compensation and Employee Benefits subcommittee. In addition, I am the ranking minority member of the committee's Civil Service subcommittee.

The second legislative committee that I serve on is the Science, Space, and Technology Committee. This allows me to secure and oversee funds for my district's vast research community, which includes the National Aeronautics and Space Administration (NASA), NIST, and NIH. I am a member of the committee's subcommittees on the Environment and on Technology and Competitiveness.



TIPS ON WRITING YOUR SENATOR OR REPRESENTATIVE

Why Write Your Senator or Representative?

- To state your position on an issue or bill being considered by Congress;
- To ask his or her position on an issue or bill;
- To inquire about his or her votes and other activities;
- To resolve a personal problem involving the government with which his or her office might be able to help.

How to Address Your Letter:

- The Honorable Mary Smith
  U.S. House of Representatives
  Washington, DC 20515

  Dear Representative Smith:

- The Honorable John Smith
  U.S. Senate
  Washington, DC 20510

  Dear Senator Smith:

Points to Remember:

- Present your views rationally. If you disagree with the member of Congress, do so without being disagreeable. Threatening or impolite letters have much less effect than do well-reasoned and sincere arguments. Personal letters are more influential than form letters.
- If possible, identify by number the bill that concerns you. Be brief, and explain why you are concerned with this issue or bill.
- Try to time your letter so that it reaches your representative or senators before they vote on the bill in question.
- If you are concerned about a particular issue, also write to the chair and the members of the appropriate committee.
- If your letter concerns a personal or family problem involving the government, follow up the letter with a telephone call to the office of your senator or representative.
- Ask for a response, and include your return address. Keep in mind that your letter will probably be read and answered by a congressional aide. A senator or representative receives thousands of letters each month and cannot personally respond to each.

Whether voting on issues, cutting through bureaucracy, or sponsoring legislation, successful members of Congress never forget that their job is to represent their home district's concerns in Washington. Often, when a congressperson is voted out of office, his or her constituents' dissatisfaction is based on a feeling that their opinions were not being accurately presented in the nation's capital.

Each member of Congress has a different style and a different set of priorities, but I, for one, have always strived to listen to all sides of issues—to constituents, congressional colleagues, and the president—before making up my mind. Even on controversial issues like health care, abortion, and unemployment benefits, I have found from my experience that most people respect a thoughtful and articulate opinion.

When I ran for Congress in 1986, I was outspent two-to-one, and I trailed in the polls until election day. I found that getting elected is difficult, but that the true challenge is doing the very best job possible of representing constituents.

It has been a true honor for me to serve the people of the eighth district of Maryland in the U.S. House of Representatives. I hope each of you will register to vote when you turn eighteen and then exercise that right regularly. I also expect many of you to consider running for office, either on local, state, or federal levels. Who knows, maybe someday *you* will be a member of Congress. It's the greatest honor any citizen could have.

Marvin T. Jones & Associates

Robert L. Mallett

is the city administrator of the District of Columbia. He previously served as legal counsel to Senator Lloyd Bentsen of Texas.

THE ROLE OF CONGRESSIONAL STAFF

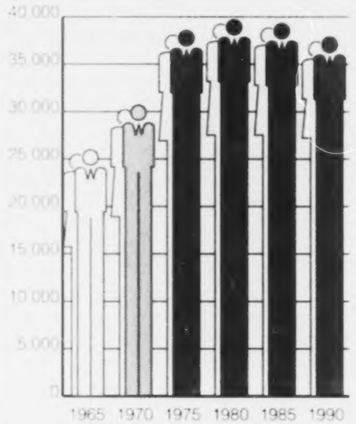
Each year resumes by the thousands flood Capitol Hill. Working for a committee of Congress or directly for a member of our national legislature still holds the promise of challenge and excitement. This combination is a powerful magnet to some of the brightest minds in our country. Congressional staff members can influence public policy, assist in the formulation of goals for our society, and help the members of Congress for whom they work craft solutions to national and global problems.

In years past, congressional representatives typically hired generalists to manage constituent issues and complete special assignments. This is still true. Increasingly, however, as members of Congress expand their legislative portfolios, newcomers to "the Hill" are professionals with specialties in law, finance, health, communications, military science, and many other disciplines. As a general rule, these professionals are highly motivated, civic-minded, and politically mature. Still there are others, such as political neophytes fresh out of college, who are seeking the excitement, glamour, and challenge that come from association with the powerful.

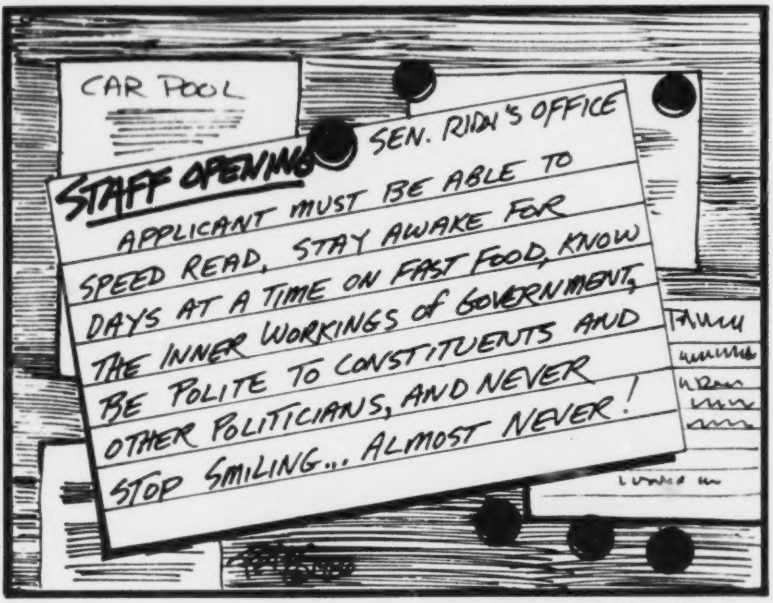
Many citizens view a congressional office as a kind of miniature think tank and a place where information is exchanged. And, to a very large extent, it is both of these things. The management, manipulation, and framing of information influence legislative development, voting outcomes, and arguments for or against an issue. Congressional aides play a pivotal role in this process. They undertake extensive work to gather and analyze information, prepare for hearings, brief senators and representatives, and issue reports on legislation as it is adopted by committees.

Aides also listen to constituents and representatives from interest and advocacy groups. A good staff aide not only has substantive knowledge

PAID CIVILIAN EMPLOYMENT IN THE LEGISLATIVE BRANCH



Source: Office of Personnel Management


CAR POOL
STAFF OPENING SEN. RIDN'S OFFICE
APPLICANT MUST BE ABLE TO
SPEED READ, STAY AWAKE FOR
DAYS AT A TIME ON FAST FOOD, KNOW
THE INNER WORKINGS OF GOVERNMENT,
BE POLITE TO CONSTITUENTS AND
OTHER POLITICIANS, AND NEVER
STOP SMILING... ALMOST NEVER!

Close Up Foundation/Peter

about an issue important to her legislator, but also is able to listen to constituent concerns and reconcile them with her legislator's goals. Likewise, a good aide is capable of ferreting out allies for proposals and serving as an advocate and coalition-builder for particular legislative objectives.

Congressional action also takes place away from the Hill. In fact, much of it does. Staff members frequently observe members of Congress at home in their legislative districts. Aides get to see, first hand, how a proposal or project affects a community. I remember, for example, surveying with my boss, Senator Lloyd Bentsen (D-Tex.), the physical damage and human devastation caused by the flooding of the Trinity River.

The river flows through east Texas from Fort Worth, passing through other major cities, including the southern portion of Dallas and Houston, and terminates at Texas's east border. Land, homes, farms, schools, and other community institutions were totally destroyed. Almost immediately, Senator Bentsen moved to have the region declared a disaster area and to institute flood control projects. It was my job to execute both these initiatives.

In home districts, aides attend public forums, private meetings, or social and civic activities with the most important people to a politician—the voting public. From these and other forums, aides can often gauge through spoken and unspoken messages the level of interest in a given topic. They can observe reticence, doubt, acceptance, fear, anger, and hostility. Equally significant, they can hear constituents express their needs. In this sense, congressional aides are essential intermediaries between the public and its elected officials. Aides' ability to listen and to balance what they hear is critical to their success as congressional staffers.

As legal counsel to Senator Bentsen, I saw firsthand the role of congressional staff, and I relished advancing the goals and interests of the senator. As chair of the Senate Finance Committee, for instance, Bentsen had oversight for a broad range of issues, including tax and health policies.

Some critics charge that Congress has too many staff members, that it has become a "government of staffs." My experience, however, is that the growth in congressional staff has been necessary for Congress to keep up with the expanded regulatory powers—and expanded staff—of the executive branch, which Congress must oversee. Without a professional staff, Congress would have no independent source of information and would be at a severe disadvantage when dealing with executive agencies. As it is, congressional staff is still vastly outnumbered. In 1990, civilian staff for the legislative branch was only 37,864—compared to more than 2 million for the executive branch (not including the U.S. Postal Service), a difference of over 50 to 1.

No good senator or representative operates without a strong staff helping to do the people's business. No good congressional aide ever forgets that the people's business is the most important work that she does.

CONGRESSIONAL TERM LIMITS: TWO VIEWS

Washington Post Writers Group

George F. Will

is a nationally syndicated columnist and a commentator on network news programs. This article is reprinted from two of his columns.

TERM LIMITS AS ANTITRUST IN POLITICS

I have changed my mind. Myriad forms of evidence have driven me to the conclusion that my opposition to limitations on the number of terms legislators can serve is mistaken. The evidence includes 8,331 bounced personal checks on the House side of the U.S. Capitol.

Seventy percent of Americans favor limits. Of course, an even higher percentage of legislators oppose them—even though the president and a majority of governors live with limits.

True, many great careers are long, and long legislative careers would become impossible. However, more talent is excluded from public service by clogging the system with immovable incumbents—and by the atrophy of the talents of incumbents once interested in things other than job security—than would be lost by term limits.

American Enterprise Institute

Norman Ornstein

is a resident scholar at the American Enterprise Institute. He has written extensively about Congress and frequently appears as a guest commentator on national news programs.

TERM LIMITS WOULD JUST MAKE THINGS WORSE

George Will's argument for term limits is not a simple "throw the bums out" approach. But it is still based on the idea that there is a cheap and easy way to take arrogance and excessive ambition out of politics, bring enlightened amateurism back to governance (as if it were ever there in the first place), and restore competition to the political marketplace.

Will says term limits for legislators will remove the virus of professionalism that has unnecessarily complicated government. Does anyone really believe that immigration laws, environmental regulations, trade rules, budget decisions, health policy, and stock market regulation are complex because professional lawmakers conspire to make them so for their own advantage? They are complex because the world is complex and because a modern society of 250 million people requires a difficult balance among huge numbers of interests. If we had amateurs writing laws, it might give us simpler laws, but that would not mean better governance.

Chances are that if the legislature consisted of junior amateurs, the real policy decisions would be taken away from an overwhelmed Congress out of its league and made instead by seasoned bureaucrats, presidential appointees, judges,

WILL CONTINUED . . .

It is said that interest groups will have magnified influence if "rookies" replace "experienced professionals" in legislatures. But then why, in 1990, did so many California interest groups fight so fiercely against the term limits passed by initiative? Because those interests have the incumbents (of both parties, who get the lion's share of campaign contributions) wired. The interests panic at the thought of any disruption of the relationship of mutual aggrandizement that exists between career lobbyists and the permanent government.

Mark Petrucca of the University of California, Irvine, argues that the professionalization of politics is incompatible with the core values of representative government. Professionalization entails a relationship between "experts" and "clients," roles that disconnect and distance professionals from what James Madison called "the communion of interests and sympathy of sentiments" that should exist in a republic between the elected and the governed.

Increasingly, Congress creates problems its members then rush forth to "solve." Congress creates programs, which entail bureaucracies; then members act as ombudsmen, intervening on behalf of grateful constituents.

Today's "permanent government" justifies its permanency by its complexity: only "experienced professionals" can navigate within it. The complexity supports ancillary professions—lawyering and lobbying. Lawyers and lobbyists guide mere citizens, those pathetic novices, through the labyrinth of the leviathan the "experienced professionals" have erected.

Members of the House of Representatives can still put their excessive pay in their amazingly friendly private bank—the members' bank that had not penalized their rubber checks. But they are supposed to start acting like other Americans and stop bouncing checks so promiscuously (the 8,331 total was from just a single twelve-month period). However, they bounced so many because they do not think like, they do not think they are like, other

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ORNSTEIN CONTINUED . . .

and the crafty and experienced people now being regulated—those we sometimes call the "special interests."

Weaken the legislature by taking away its expertise and experience, and we strengthen the other arms of government who now compete with Congress along with the various experienced interests in Washington. I see no reason to expect more enlightened, less corrupting [illegible]licy with an unchecked executive branch or a newly unleashed judiciary taking over, or by weakening Congress's oversight over forces in the private sector.

I am not surprised that most "special interests" oppose term limits: they have invested a lot in learning how to take advantage of the current system, and any change would involve heavy transition costs. But I have absolutely no doubt that they would have more leverage, not less, over a Congress consisting of inexperienced newcomers.

Will argues that we will get *enlightened* amateurs with term limits—noble and seasoned citizen-legislators who leave their top careers not for political ambition but to spend a few years in Washington before returning to their homes and jobs. Well, look what it takes to run for office in a congressional district with 550,000 people in the modern telecommunications age. Look at the costs of uprooting one's family and living the nomadic, two-household existence built into Congress.

People willing to suffer the upheaval of running for Congress and coming to Washington will be just as ambitious as those here now—but they will channel their ambitions in different ways. Congressional service will be a stepping stone to the next post, not a place to serve in and of itself. Instead of making any commitment to their institutions or to long-term policy, term-limited members will start on day one thinking about the next step. They will be running for the Senate from the time they enter the House, or cozying up to lawyers and lobbyists to prepare for the next stage of their careers.

To be sure, there are serious problems now in governance and standards for politicians. There are

WILL CONTINUED . . .

Americans, and they disdain the rules and laws governing other Americans.

Besides, their private behavior mimics their professional behavior. These "experienced professionals" govern by writing trillions of dollars worth of government checks against insufficient funds. It is called deficit spending.

To govern is to choose. A legislature's primary duty is to budget. Careerism has rendered the professional political class unwilling to make hard choices—the only important kind.

There are many questions about term limits. How many terms are appropriate? Can states constitutionally limit the terms of their congressional delegations? If not, how can the political class be brought to heel? Are term limits "undemocratic"? If so, so what? Why did the founders not establish limits? What will be the sociology of legislatures when service in them cannot be a career, only a leave of absence from real life? What kind of person, at what point in life, will run?

. . . .

Are term limits an abridgement of democracy? Yes, in the sense that the First Amendment, judicial review, and various other constitutional arrangements are too. But term limits are "anti-democratic" only if democracy is understood crudely as the utterly untrammeled sweep of majorities. Fortunately, America's subtle founders thought pure democracy should be leavened with restraints on pure majoritarian rule, restraints designed to enlarge the probability that popular government will be good government.

Term limits regulate competition in order to intensify it, just as antitrust laws limit and channel the sweep of economic forces to stimulate economic diversity. Think of term limits as antitrust policy in politics.

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ORNSTEIN CONTINUED . . .

ways to solve those problems, through campaign finance reform, disclosure, stiff enforcement of ethical standards, and good old-fashioned political leadership. Dramatic and irreversible constitutional change is not the answer.

We tried that with term limits on the presidency and they have failed miserably as a way to bring more competition to presidential elections or bolder leadership to the White House. Did we get presidential leadership on the deficit from the term-limited Ronald Reagan? Did we get more and better leadership from him in his second term, when he was freed from the shackles of reelection? The answer is clearly no. Instead of seeking a nonexistent panacea and moving to limit the terms of lawmakers, we should devote our efforts to repealing the Twenty-second Amendment and to removing the term limits that now exist for governors—and rolling up our sleeves to accomplish the reforms that would make a positive difference. George Will is right about one thing—term limits would stick it to the lawmakers. They would stick it to the rest of us too.

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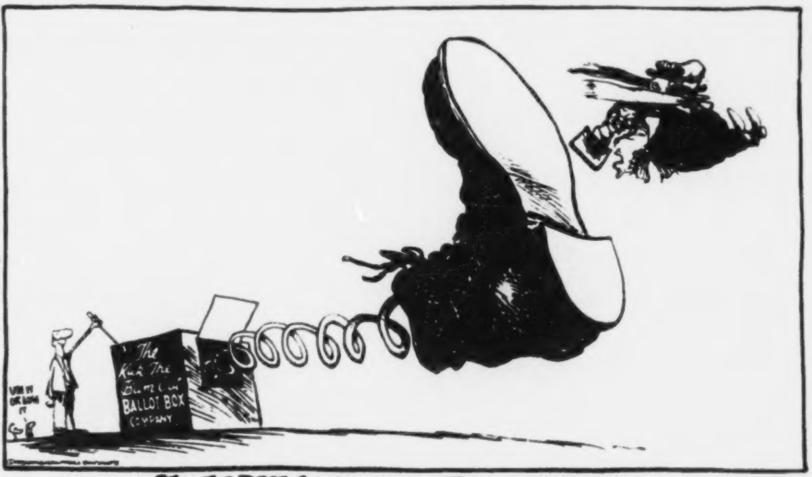
The Kick The Bums Out BALLOT BOX COMPANY

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STILL THE BEST CONGRESSIONAL TERM-LIMITING DEVICE.

The Congress

CONGRESS AND THE CRIME BILL

by Tim Walker

Close Up Foundation/Renée Bouchard

As the rate of violent crime in the United States increased throughout the 1980s, the American people called on Congress to pass tough anticrime legislation. This is the story of how members of the House and Senate balanced political considerations with their philosophical beliefs in their attempt to produce one of the most comprehensive and controversial crime bills in Congress's history. As you read, try to answer the following questions:

- *Why was Congress so determined to pass a crime bill?*
- *Which party had the most to lose politically from the crime issue? How did political considerations influence which provisions these party members chose to support?*
- *How did Senators Mitchell and Metzenbaum prevent a filibuster over the Brady bill and collect enough votes for its passage?*
- *What factors contributed to Congress's abandoning the 1991 crime bill?*
- *Why are critics generally skeptical about Congress's role in fighting crime?*

A recent *Washington Post* survey asked a sampling of Americans to name the national problems about which they worry "a great deal." The AIDS epidemic, environmental pollution, the cost of education, the spread of illegal drugs, and the economy were all mentioned by 50 to 60 percent of those surveyed. But the increase in violent crime throughout the country provoked the greatest response, with 70 percent of survey participants saying it was their primary concern.

As the public's fear of crime—specifically violent urban street crime—has risen in the United States, so has its demand that strong action be taken to combat the problem. Because local law enforcement officials and an overburdened court system have been unable to cope with the growing violence, many people began turning to the federal government for answers. Once considered a local issue to be dealt with by individual cities and states, crime is now a national priority that requires strong involvement from the president and Congress.

The crime wave sweeping the country threatens to reach unprecedented levels in the 1990s. Offenses such as murder, rape, robbery, and aggravated assault have quadrupled

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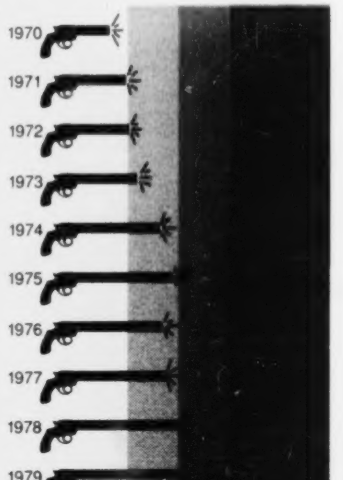
VIOLENT CRIME IN THE UNITED STATES: 1970-1990

(number of offenses per 100,000 people)



Source: Federal Bureau of Investigation

over the past thirty years. A recent study showed that the rate of violent crime in the United States far exceeds the rate in all other industrialized countries. In 1991, most major American cities broke their annual homicide records—2,000 murders were committed in New York City alone.

According to a recent poll, 45 percent of the people—75 percent of women—living in urban areas are now too afraid to walk through their own neighborhoods after dark. And more than half the population believe that there is more violent crime where they live today than there was three years ago.

This atmosphere of fear and anger provoked Congress's efforts to produce the sweeping and controversial 1991 crime bill. The bill was a culmination of a two-year debate in Congress over the most emotional and divisive crime-related issues—capital punishment, gun control, and the constitutional rights of defendants. While many Americans were encouraged to see their elected officials confront and wrestle with these issues, many political analysts looked upon the proceedings as little more than a political spectacle—heavy on rhetoric, light on substance. Critics saw the process—beginning with the debate and ending with the threat of a presidential veto and Senate filibuster that ultimately sunk the legislation—as a contest between Democrats and Republicans to determine which party could claim to be toughest on crime during all-important election years. Others, however, were pleased to see the legislative branch of government taking strong action in response to concerned citizens who would no longer stand for complacency toward violent crime.

FIGHTING CRIME: WHAT CAN CONGRESS DO?

The United States judicial system has come under increasingly sharp scrutiny by the public and the media. Most Americans believe that courts are too protective of the constitutional rights of law-breakers, and that this results in the acquittal of obviously guilty defendants. Feeling that the judicial system is no longer effective, the public has turned to the federal government as a last resort.

Traditionally, the legislative and executive branches of the federal government stayed out of the crime-fighting business. Only crimes such as drug and gun trafficking across state lines caused the government to intervene. However, Congress's role changed in the late 1960s when it created the Law Enforcement Assistance Administration (LEAA) to distribute funds to local governments for law enforcement. Although it was eventually phased out, the LEAA helped establish Congress's prominent role in the fight against crime.

However, many skeptics believe that the prevention of street crime is out of the domain of the federal government and should be primarily the responsibility of local governments. Political scientist James Q. Wilson argues that the best assistance Congress can offer is to provide money, expertise, and leadership to state and local governments. According to Wilson, Congress should stop short of taking the initiative away from most communities by passing "get tough on crime" legislation.

BEST COPY AVAILABLE

Sweeping laws overhauling police and courtroom procedures will accomplish little, Wilson says, because such laws focus on short-term results. But most crime experts agree that such advice is unlikely to attract much attention from either Congress or the president because the political consequences of not taking strong action against violent crime are too great for members of the House and Senate to ignore.

THE POLITICS OF CRIME

In today's political climate, nothing strikes a more fearful chord in an elected official than the accusation that he or she is "soft on crime." In a tight race, the candidate who is able to portray an opponent as someone who will be lenient on criminals is likely to win.

Crime has been a volatile political issue for almost thirty years. During the 1960s, Republican presidential candidates Barry Goldwater and Richard Nixon spoke often of the spread of crime throughout America and assailed liberals in Washington for their poor record on law and order issues. However, it was not until the 1988 presidential contest between George Bush and Massachusetts Governor Michael Dukakis that crime became one of the most controversial and emotional issues of U.S. domestic policy.

In July 1988, with Bush far behind in the polls, his media advisers and campaign staff aired a television commercial depicting convicts walking through a revolving door at a prison gate. The narration detailed how, under Governor Dukakis, Massachusetts had the most lenient prison furlough program in the country—one that gave weekend passes to convicted murderers and rapists who had been sentenced to life imprisonment. A conservative political group not aligned with the Bush campaign aired a second ad that focused on the case of Willie Horton, a convicted murderer who beat and raped a young woman while on one of his weekend furloughs. Horton, according to the commercial, had been given ten passes, and Dukakis did nothing to stop it. The underlying message of these ads was simple: Michael Dukakis, the Democratic nominee for president, was soft on crime.

Although the accuracy and fairness of the commercials have been debated by political analysts, no one could question their effectiveness. Partly because of the growing perception that he was too liberal on social issues, Michael Dukakis's seventeen-point lead over George Bush in the polls evaporated. Dukakis made matters worse during his second televised debate with Bush. When Governor Dukakis was asked by one of the moderators what sentence he would recommend for a man who had just raped and murdered his wife, the governor responded—unemotionally, most thought—that he would not recommend the death penalty to any criminal because he was adamantly opposed to capital punishment. Political observers agreed that this response only added to the candidate's liberal image.

Dukakis failed to respond to charges that he was weak on crime until only a few weeks before the election. By then it was too late. He lost the election to George Bush in a landslide. The fate of Michael Dukakis has served as a strong lesson to most elected officials that violent crime can be a volatile political issue.

After George Bush was inaugurated in January 1989, Congress prepared to consider various crime proposals. The main objective of Democratic members was to, as one political analyst put it, "de-Dukakis-ize" the crime issue. Republicans, the minority party in both the House and Senate, planned to attack Democrats with the crime issue during election years in hopes of recapturing control of Congress. Although most Democrats publicly denied that they had any reason to be defensive about their stance on crime, Democratic Senator Joseph Biden, who chairs the Senate Judiciary Committee, conceded that "one of my objectives, quite frankly, is to lock up Willie Horton." Most political observers agreed that to succeed in doing this, many Democrats would have to compromise their belief in the constitutional rights of the accused and the immorality of the death penalty and embrace Republican anticrime initiatives.

ENFORCEMENT VS. PREVENTION

In recent years, no public policy issue has highlighted the ideological

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David Valdez/The White House

In the 1988 presidential campaign, George Bush succeeded in painting his opponent, Democrat Michael Dukakis, as a "weak on crime" liberal. After the election, President Bush placed a strong, comprehensive crime bill at the top of his legislative priorities and challenged the Democratically controlled Congress to do the same.

differences between liberals and conservatives quite like crime. Republicans have generally favored an offensive on crime led by strong enforcement measures such as capital punishment, mandatory jail sentences, and a limit on appeals filed by convicted murderers. They also favor a relaxation of restrictions placed on police officers while gathering evidence. Proponents of these measures believe that future would-be criminals will be deterred by the prospect of facing harsh retribution from the criminal justice system.

The anticrime agenda of Democrats has traditionally focused on long-term goals. They believe no campaign against crime can be successful without first attacking the problem at its roots. According to statistics, most repeat criminal offenders experienced either poverty, drug or alcohol addiction, or abuse from their parents at some point in their past. Therefore, many Democrats believe that if criminal behavior is to be reduced, the government must work to improve the quality of life for America's underclass, particularly in big city ghettos.

According to most public opinion polls, the vast majority of Americans favor an enforcement-based offensive that offers quick results. For example, 80 percent of the public approves of the death penalty. The average citizen tends not to view murderers or rapists as victims of society but instead thinks of them as violent criminals who deserve swift and severe punishment. Therefore, members of Congress recognize that any anticrime legislation must include proposals that promise to punish, and ideally prevent, acts of violence. In 1989, as President Bush and Congress prepared to draft anticrime proposals, the debate centered around four major issues: capital punishment, habeas corpus, the exclusionary rule, and gun control.

Capital Punishment. Ever since the United States Supreme Court upheld the constitutionality of the death penalty in 1976, Congress has gradually authorized capital punishment for certain crimes, such as treason, hijacking, and drug trafficking that results in murder. Although the overwhelming majority of Americans favor the death penalty, the debate over whether it actually deters crime continues. Supporters believe death penalty laws send a clear message to murderers and drug dealers. Opponents claim that there has never been any evidence—statistical or otherwise—to suggest that capital punishment has reduced the murder rate in America since its reemergence. For example, twenty-five convicts were executed in 1987, but the number of murders actually rose the next year by over 300.

An extension of the death penalty to cover more violent crimes has been on the Republican party's agenda for decades. During the early

1980s, President Ronald Reagan included provisions for it in his annual crime bill, only to be rejected by Congress every time. But by 1990, as the public's demand for capital punishment grew, most members of Congress concluded that its proliferation was inevitable and that voting against it would be politically impractical.

Habeas Corpus. Complicating the debate over capital punishment has been the recent round of proposals from members of Congress, the president, and Supreme Court Chief Justice William Rehnquist to limit the number of petitions for the writ of habeas corpus that death row inmates can file in the federal court system once their state-level appeals have expired. Habeas corpus (Latin for "having the body") is a constitutional right that prevents arbitrary imprisonment by government officials.

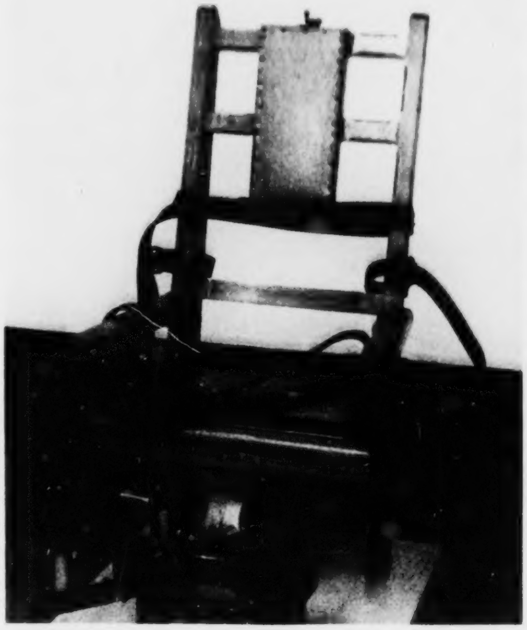
The movement to limit habeas corpus appeals emerged after a 1989 study by a judicial committee headed by former Supreme Court Justice Lewis Powell revealed that the average time between conviction and execution in murder cases was more than eight years. Supporters of revising habeas corpus procedures argue that these delays are created by lawyers who abuse the appeals process purely to circumvent the law. However, critics of the revisions claim that if the death penalty becomes more commonplace, then habeas corpus appeals will be even more precious to those prisoners who have been wrongly tried and convicted. Take away opportunities for exoneration, these critics believe, and innocent men and women will be sent to the execution chamber.

The Exclusionary Rule. Many Americans believe that judges are too willing to acquit violent criminals because of legal technicalities. One such technicality is the exclusionary rule, which prohibits illegally obtained evidence from being used against a defendant even if it proves that person's guilt.

Supporters of the exclusionary rule say it is a vital safeguard against violations of a defendant's constitutional rights by the government. They also point out that statistics show that the exclusionary rule is rarely used as the basis for omitting evidence in court proceedings. Supporters therefore conclude that the Bill of Rights is being used unjustly as a scapegoat for problems that lie elsewhere in the judicial system.

But the number of people opposed to the exclusionary rule has been multiplying over the past decade. To these critics, the rule is a symbol of the judicial system's tendency to be overprotective of the rights of criminals. Opponents also argue that the exclusionary rule prevents police officers from gathering evidence efficiently when their hands are tied by these restraints.

During the 1980s, several Supreme Court decisions established certain exceptions to the rule. Encouraged by the conservative direction of the court's rulings, in 1990 President Bush vowed to make reform of the exclusionary rule a major weapon in his war on crime.



Virginia Department of Corrections

As the murder rate in the United States has increased, the public's cry for more capital punishment has gotten louder. In 1991, one poll showed that over 80 percent of the American people supported the death penalty. An extension of capital punishment to cover a new list of crimes was one of the only crime bill provisions Republicans and Democrats in Congress could agree on. The electric chair, shown here, is one method of capital punishment.

Gun Control. An equally contentious crime-related issue is gun control. Because the vast majority of homicides in the United States are committed with firearms, advocates of gun control have argued for more than twenty years that it is imperative to take away, or at least restrict, the public's access to guns.

Many American gun owners follow the lead of the National Rifle Association (NRA) in opposing restrictions on what they believe is a constitutional right: the right of all Americans to own firearms. The Second Amendment of the U.S. Constitution reads: "A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed." But proponents of gun control argue that the framers of the Constitution intended state militias to be the beneficiaries of this right, not individuals. Although organizations like Handgun Control, Inc., have been lobbying Congress for more than twenty years, the NRA—one of the most powerful lobbying groups in the United States—has been very successful in containing their efforts.

Congress has passed very few laws restricting the sale and manufacturing of firearms. The National Firearms Act of 1934, a response to gangland warfare, limited the sales of machine guns and sawed-off shotguns. After the assassinations of Martin Luther King, Jr., and Robert Kennedy, Congress passed the sweeping 1968 Gun Control Act, which barred mail-order and interstate shipments of firearms and established licensing procedures for manufacturers, dealers, and collectors. The law also barred gun sales to convicted felons, drug addicts, minors, and people with mental disorders. During the 1970s and 1980s, the NRA stepped up its campaign against gun control laws and in 1986 pushed the Senate to pass a law that loosened the restrictions of the 1968 law to allow interstate sales of rifles and shotguns.

Gun control has created deep divisions within Congress. Many members are fearful of the political backlash of approving (or rejecting) new gun control laws. President Bush, a longtime supporter of the NRA, vowed to veto any law that included additional restrictions.

THE SEEDS OF THE CRIME BILL

On the heels of his victory over Michael Dukakis, President Bush had to act on his campaign pledge to forcefully take on the problem of violent crime. In May 1989, the president introduced to the nation his new offensive on crime. Provisions of the $1.2 billion package included:

- a permanent ban on the import of foreign-made semiautomatic weapons;
- an additional $1 billion for new prison construction;
- an increase in penalties for firearms violators, including doubling the mandatory penalty to ten years;
- an extension of the death penalty to cover federal crimes involving homicide, treason, and espionage; and
- an exemption of the exclusionary rule for evidence gathered in "good faith" by police who believed that their actions were legal.

Congress Reacts. The immediate response of Democrats in Congress was that the Bush anticrime plan was just a rehash of rejected Reagan proposals. They criticized the package for its $1.2 billion price tag and its emphasis on overly strict enforcement measures such as mandatory sentencing and widespread use of capital punishment. However, one item—the ban on foreign-made semiautomatic weapons—caught the attention of gun control advocates in Congress and around the country. Although they did not believe that the provision was far-reaching enough, they were nonetheless encouraged by the window of opportunity the measure provided for a more comprehensive gun control law.

The Biden Alternative. Early in 1990, Democratic Senator Joseph Biden of Delaware introduced an anticrime bill designed to give his party more control and authority over the crime issue. Because he chaired the Senate Judiciary Committee, Senator Biden was in a powerful position to set the tempo of the Senate debate and decide what crime-related issues were to be considered. The Biden anticrime package covered the same basic ground as the Bush plan—new death penalty laws, a revision of habeas corpus, gun control measures, and the exclusionary rule. There were, however, key differences. For example, Biden's death penalty provision included an amendment written by Democratic Senator Edward Kennedy of Massachusetts barring any death sentence that exposes a "racially discriminatory" pattern or involves a defendant who was eighteen years old or younger at the time of the offense.

Senator Biden called for a ban on certain types of U.S.- and foreign-made semiautomatic weapons. The random killing of schoolchildren by a lone gunman using a semiautomatic rifle in Stockton, California, earlier in 1989 increased support among the American people for stricter gun control measures.

The Biden plan also included a "good faith" clause for the exclusionary rule that would give police officers some leeway if the search warrant they obtained was later found to be invalid. This version was a considerably narrower relaxation than the president's proposal to allow the "good faith" clause even when police had no search warrant.

Debate in the Senate brought about major changes in the Biden bill. A proposal by Democratic Senator Robert Graham of Florida to strike the Kennedy amendment from the bill was adopted 58 to 38 after opponents successfully argued that such an exemption would invite unfounded accusations from death row inmates and clog up the appeals process. In addition, Senator Biden's exclusionary rule revision was also taken out. The full Senate then approved the bill 94 to 6 in July 1990.

Richard A. Bloom

The crime proposal of Democratic Senator Joseph Biden of Delaware served as the alternative to President Bush's proposal in Congress. Although Biden's bill covered the same basic territory, it placed a great deal more emphasis on protecting the constitutional rights of the accused and federal review of all death penalty cases.

ACTION IN THE HOUSE

The pace in the House of Representatives to pass its own 1990 crime package was considerably slower than in the Senate. Although it was a legislative priority, some members were wary of passing yet another crime bill. House Judiciary Committee Chair Jack Brooks, a Democrat from Texas, was skeptical. "All of us have voted for crime bills almost every year for the last few years," Brooks said. "We have got almost as many crime bills as they have crimes committed." Republicans suspected that the Democratically controlled committee was letting Republican crime proposals languish for political reasons. However, 1990 was an election year, and crime was the number one concern of most Americans. Both political parties were eager to pass another crime bill. Pressured by House members to act, the House Judiciary Committee spent most of July 1990 sorting through the mountain of proposals and writing the House version to match the Senate bill passed earlier. The bill that emerged a month later was similar in many ways to the Senate's bill, but the details included major differences.

Like the Senate bill, the House bill expanded capital punishment to include thirty new crimes, proposed habeas corpus revisions, and added new criminal penalties for drug offenders. The House measure also included a provision that allowed for a death row inmate to have his or her sentence overturned if racial discrimination could be proved—a clause stripped from the Senate bill. However, under the House bill, death row inmates would have only six months to file habeas corpus petitions. The most notable absence from the House bill was the ban on foreign-made semiautomatic weapons that the Senate had passed.

The crime measure passed overwhelmingly in the House, 368 to 56. However, some representatives protested many of its provisions. Democrat Charles Rangel of New York, an opponent of capital punishment, accused his colleagues of having "a lust for blood." But others were satisfied with the finished product. Florida Republican Bill McCollum declared, "I think we've done an excellent job in the war against crime in this bill."

AND NOW FOR THE TOUGH PART

Because only one piece of congressional legislation can become law, the House and Senate had to combine their respective bills to produce a compromise package. In October 1990, under tight time constraints, House and Senate conference committees convened to hammer out a joint anticrime bill that everyone, including President Bush, could agree on. Not long after the process got under way they realized that arriving at a compromise over the most controversial provisions—extension of the death penalty, habeas corpus limitations, and gun control—was unlikely. While the Senate refused to give up its ban on foreign-made semiautomatic weapons, the House was determined to protect the racial bias clause for death row inmates.

In late October, efforts to reach an agreement on the two versions of the crime bill were abandoned, and the House and Senate settled for a significantly diluted bill that included no action on the proposals most in Congress felt were vital to any war on crime. The 1990 Crime Control Act included new penalties for child abuse, more funding for law enforcement, and the establishment of a new office in the Justice Department to combat corruption in the banking industry. President Bush signed the bill but was clearly disappointed, as were members of Congress. "This *was* a strong anticrime bill," declared Republican Representative Henry Hyde of Illinois, "but it left here as Arnold Schwarzenegger and came back as Woody Allen."

CONGRESS TRIES AGAIN

The 1990 Crime Control Act satisfied practically no one. Although officials agreed that its provisions were worthy, the conspicuous absence of the strict enforcement measures that President Bush and many Republicans and Democrats favored made the bill almost irrelevant in the minds of most senators and representatives. Nonetheless, the president urged Congress to try again in 1991. At a "crime summit" in March of that year, Bush announced that he wanted a strong crime bill from both Houses within 100 days, giving members of Congress until around mid-June to come up with one. Democrats dismissed this challenge as political posturing on the president's part. Republican members of Congress, however, threatened once again to make crime a major campaign issue in the 1992 elections. Most political observers agreed that the American people remained suspicious of the Democratic party's crime-fighting credentials.

The Senate convened in June to consider the resubmitted Bush proposal sponsored by South Carolina Republican Strom Thurmond and the Democratically supported Biden bill. With so many questions unresolved and prospects for compromise dim, many observers were wondering how both sides could produce a bill that Democrats and Republicans in the House and Senate could live with. Furthermore, liberals were frustrated that both proposals were primarily Republican initiatives and contained little that they could wholeheartedly support.

THE BRADY BILL: THE MAGIC BARGAINING CHIP

During the spring of 1991, a three-year-old bill resurfaced that would provide liberal Democrats with the incentive to support a new crime bill. Named after former President Ronald Reagan's press secretary James Brady, who was shot and crippled in the 1981 attempt on Reagan's life, the Brady bill called for a seven-day waiting period for any person purchasing a handgun. The purpose behind a waiting period would be to allow—but not require—local authorities to look into the police record of a potential customer for any arrests or criminal convictions. Strongly supported by handgun control advocacy groups but opposed by the NRA, the Brady bill, if passed by Congress, faced a certain veto by President Bush.

The House acted on the Brady bill first in the spring of 1991. The choice before House members was the Brady bill or the Staggers bill. Written by Democratic Representative Harley Staggers of West Virginia, the Staggers bill would replace the seven-day waiting period with an instantaneous computer check, made possible by a terminal wired to a federal crime data bank, which every gun store would be required to have. Supporters of the Staggers alternative argued that it guaranteed that a gun buyer's background would be investigated without imposing an unreasonable waiting period on law-abiding gun buyers. Critics called the proposed computer check unfeasible because such a computerized system would take years to implement. Gun control advocates viewed the Staggers bill as nothing more than an NRA-backed ploy to undermine the growing support for the Brady bill. After a long and heavily publicized debate, the House passed the Brady bill, 239 to 186. After the vote, when asked what he would say to the president, James Brady replied, "I would tell him: 'You're a good man. Do what is right—sign it.'" The president, however, promised to make good on his threat of a veto. But as public opinion lined up behind the Brady bill, President Bush softened his position by indicating that he would accept the bill if it were part of a strong and comprehensive crime bill.

The Senate Debate. A rough road lay ahead for the Brady bill in the Senate, where opposition to gun control measures was much stronger. Many members questioned how effective the law would be if it only established a seven-day waiting period without actually mandating a background check by local enforcement officials. Senators from hunting states were apprehensive about supporting a gun control measure as restrictive as the Brady bill. Opponents drafted a Senate version of the Staggers bill.

By late June, supporters of the Brady bill had built a ten-vote lead in the Senate, but that was not enough to prevent a filibuster—a tactic used to demonstrate opposition to a particular piece of legislation by talking on the Senate floor continuously night and day. Facing this unwelcome possibility, Democratic Senators George Mitchell of Maine and Howard Metzenbaum of Ohio unveiled a compromise measure. Instead of a seven-day waiting period, their proposal called for a waiting period of five business days that would be phased out over a span of two and a half years, during which an instant background check system would be developed. The Mitchell-Metzenbaum compromise succeeded in bringing nervous Democratic and Republican senators on board, and the Senate passed the Brady bill, 67 to 32. To avoid a presidential veto, the bill would be included as a provision of the major crime bill yet to be written.

THE SENATE TACKLES THE BIG ISSUES

Once the Brady bill was passed, the Senate could get down to the business of wrestling with the issues that had sunk the previous year's legislation. Senate members wanted to pass a tough and comprehensive package before the end of June. Many senators wanted to return home for the Fourth of July recess with triumphant news from Capitol Hill on the war against crime.

It became clear to many opponents of the death penalty that to try to derail efforts to make it applicable to more crimes was probably useless given its considerable support in Congress and among the public. Nevertheless, some senators offered last-minute amendments. Democrat Paul Simon of Illinois attempted to replace all of the bill's death penalty provisions with sentences of life imprisonment without parole, but was soundly rejected by the rest of the Senate. It was finally agreed to make fifty-one crimes punishable by death, including major drug trafficking even if no murder was committed in the act. This new provision was substantially harsher than the one in the 1990 package, which singled out only thirty offenses. After the capital punishment provision was passed, outraged liberal senators announced they would vote against the crime bill

Handgun Control, Inc.

In 1981, President Reagan's press secretary James Brady was severely wounded in the attempt on the president's life. Ten years later, Brady (center) and his wife, Sarah, helped persuade both Houses of Congress to pass the Brady bill, which called for a mandatory waiting period for anyone wanting to purchase a handgun. After President Bush threatened to veto the bill, sponsors attached it to the larger House and Senate anticrime package.

even if it included the gun control measure for which they had fought so hard. Democrat Daniel Patrick Moynihan of New York denounced the Senate's message as "throw the switch and watch them twitch."

The Hatch Amendment. Republican Orrin Hatch of Utah then introduced an amendment that would prevent federal court review of death sentences that judges believed had a "full and fair" hearing in court. It would also limit successive petitions by allowing the inmate only six months to file an appeal, and giving the federal judge only one year to act on it. Senator Biden opposed the harshness of the amendment and believed it would relinquish federal review of all death penalty cases. "What have we come to?" he asked during the debate. "Do we want blood to drip from the walls here? Is that what will satisfy us?" Republican Strom Thurmond of South Carolina countered by saying, "It will determine whether the Congress will do what the American people are demanding—that we put an end to endless appeals in death penalty cases." The Hatch amendment was adopted by a wide margin.

While the strict death penalty provisions and habeas corpus limitations were largely Republican initiatives, the "good faith" clause to the exclusionary rule that was agreed upon was not the one Republicans and President Bush wanted. Instead, the Senate approved a measure allowing illegally obtained evidence with an invalid search warrant as long as the officer acted in "good faith." Republican members had hoped to include a "good faith" provision allowing such evidence even without a warrant.

The D'Amato Amendment. The Senate also approved what was probably the most far-reaching of the new bill's provisions—an amendment by Republican Alfonse D'Amato of New York to make all homicides committed with a firearm a federal crime punishable by death. During debate, opponents of the amendment argued that it would throw the judicial system into chaos. Virtually all capital offenses are normally prosecuted at the state and local levels; federal courts, these critics argued, were ill-equipped to handle a flood of new cases. In addition, the cost of trying the nearly 12,000 annual gun-related homicide cases in federal courts was estimated to exceed $2.5 billion. Senator D'Amato responded, "I could care a hoot about the fact that it may create a burden for federal courts. Better a burden for the courts than the continued killing and violence on our streets. The federal government cannot simply say this is a local responsibility." Without a hearing to look into the potential burden on the federal courts or any further study, the Senate passed the D'Amato amendment 88 to 11.

The Final Vote. On the final day before the July 4 recess, the full Senate approved the Violent Crime Control Act of 1991 by a vote of 71 to 26. In addition to the new capital punishment, habeas corpus, and exclusionary rule measures, the package included the following provisions:

- authorization of $3.3 billion for increased law enforcement and new prisons;
- bans on the sale, importation, or possession of nine types of assault weapons; and
- a new layer of mandatory minimum sentences for drug- and gun-related crimes.

The political bickering between Democrats and Republicans did not end with the vote. Afterwards, leaders from both parties argued on the floor of the Senate and in the press over whether the bill was a Democratic or Republican victory. Most senators agreed, however, that it was a sound, tough bill.

ON TO THE HOUSE

Immediately following the passage of the 1991 Violent Crime Control act, many House members denounced its provisions. House Judiciary Committee Chair Jack Brooks said that the Senate bill neglected to mention where the funding would come from, ignored defendants' right to due process, and threatened to overload the country's judicial and penal systems.

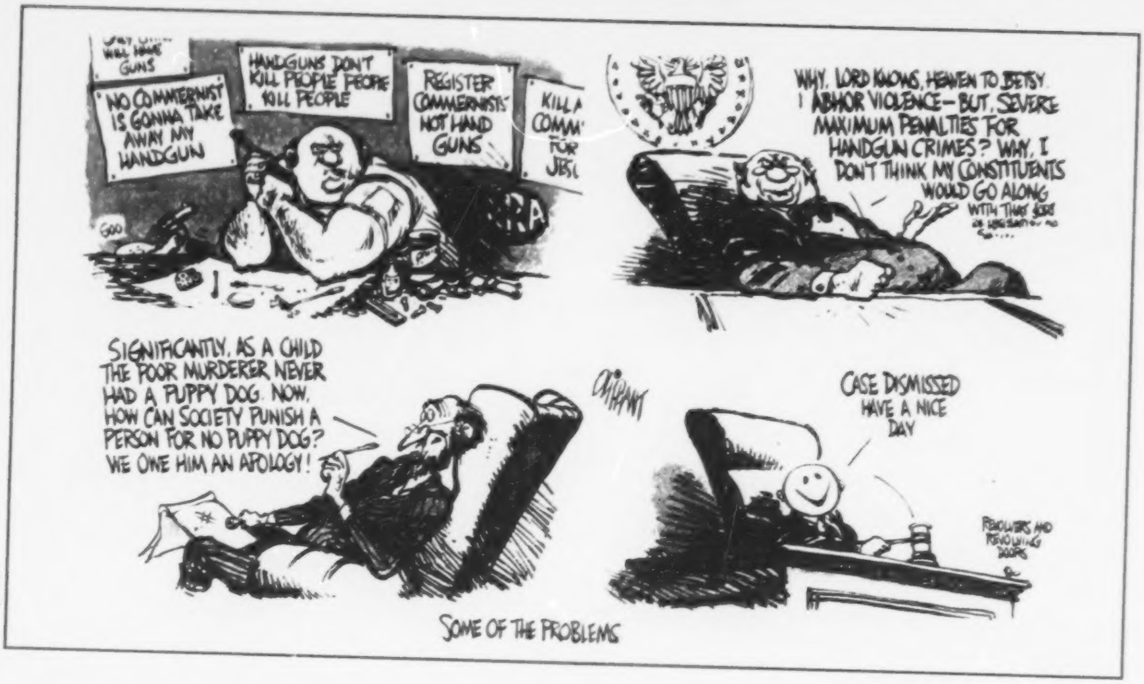
The House Judiciary Subcommittees meanwhile had been holding their own hearings on a wide range of proposals. Democratic Representative Charles E. Schumer of New York, who chairs the Crime and Criminal Justice Subcommittee, said he would steer the House bill away from an enforcement focus to concentrate instead on preventive measures. But House Republicans praised the Senate package and vowed to fight any attempt by Democrats to soften the House bill with provisions they believed coddled criminals.

House Debate and Vote. In October 1991, the House Judiciary Committee offered its proposal for the House version of the crime bill. Like the Senate version, the Democratic-backed bill extended the death penalty to cover more than fifty crimes. But it also included various protections for defendants, among them provisions allowing death row inmates to challenge their sentence as racially motivated and overturning a recent Supreme Court ruling that allows certain coerced confessions to be admitted into evidence. The bill also called for a ban of thirteen domestically made assault weapons. Representative Schumer announced, "it's a tough bill . . . that really tries to deal with the issue of crime rather than the issue of political posturing."

President Bush and House Republicans assailed the Democratic proposal, calling it a "procrime" bill that would invite convicted violent criminals to abuse and manipulate the criminal justice system. The president promised to veto any legislation that expanded the rights of criminals while also limiting the right of citizens to purchase firearms. He reiterated his demand for a bill that would "support our men and women on the front line."

As soon as the Democrats' proposal hit the House floor for debate, Republican members moved to recast the bill to their liking, making sure that the provisions they and the president wanted were included. Allied with the necessary number of Democrats, Republicans managed to push through amendments striking the key elements of the Democrats' proposal covering the semiautomatic weapons ban and the racial justice defense for death row inmates. In addition, language was approved to allow illegally obtained evidence to be used by prosecutors.

The House debate over the weapon ban was especially volatile because it occurred only one day after a man armed with a semiautomatic pistol drove his truck through the window of a cafeteria in Killeen, Texas, and opened fire, killing twenty-two patrons. Supporters of the semiautomatic weapons ban used the event as a backdrop for their pleas to keep the provision in the final bill. However, opponents pointed out that the firearm used by the gunman would not have been covered by the ban even if it were law. The tragedy in Texas failed to move enough members of both


WILL HAVE GUNS
NO COMMERNIST IS GONNA TAKE AWAY MY HANDGUN
HANDGUNS DON'T KILL PEOPLE PEOPLE KILL PEOPLE
REGISTER COMMERNISTS NOT HAND GUNS
KILL A COMM' FOR JESU
GOD
RA
WHY, LORD KNOWS, HEAVEN TO BETSY, I ABHOR VIOLENCE—BUT, SEVERE MAXIMUM PENALTIES FOR HANDGUN CRIMES? WHY, I DON'T THINK MY CONSTITUENTS WOULD GO ALONG WITH THAT SORT OF LEGISLATION AND SO...
SIGNIFICANTLY, AS A CHILD THE POOR MURDERER NEVER HAD A PUPPY DOG. NOW, HOW CAN SOCIETY PUNISH A PERSON FOR NO PUPPY DOG? WE OWE HIM AN APOLOGY!
OLIPHANT
CASE DISMISSED HAVE A NICE DAY
REVOLVERS AND REVOLVING DOORS
SOME OF THE PROBLEMS

Pat Oliphant

parties to support the ban, and it was stripped from the bill. Nonetheless, the Brady bill that was approved by the House several months earlier was included in the final package.

Language limiting habeas corpus proceedings was also approved, although it was not as sweeping as the Senate version. The House agreed on an amendment to set a one-year deadline on all appeal petitions, compared to the six-month limit in the Senate bill. But the House included a provision giving police officers more leeway in gathering evidence by allowing any illegally obtained evidence to be used if the officer acted in "good faith," even if a warrant was never obtained. The Senate language stipulated that such evidence could be admitted only if the warrant was later found to be invalid.

One of the most controversial features of the previous year's House crime bill was the racial justice clause that allowed prisoners to argue that their sentence was racially motivated. Representative Henry Hyde proposed to strip the racial justice clause from the bill. Opposing the Hyde amendment, Democrat Don Edwards of California argued that "comparing similar cases, blacks consistently get the death penalty where whites do not. The bill allows courts to look into that evidence." Hyde responded, "If somebody takes a .45 and puts it to my head and wants to blow my brains out and does, I do not care what color that person's skin has. He ought to get the chair." Hyde's amendment was adopted, 238 to 180, and the racial justice clause was taken out.

Satisfied with the changes made, the full House overwhelmingly approved the new bill, 305 to 118. President Bush praised the bill and appeared eager to sign it into law. But first, the final hurdle would have to be overcome. The House and Senate had to consolidate their slightly differing bills. Members of the House expressed optimism that the House and Senate bills would be reconciled before Congress adjourned.

BACK TO CONFERENCE

Very soon into the House-Senate conference, it became clear that optimism over reaching an accord was premature. Partisan bickering began almost immediately when Senate Republicans objected to the appointments of the conferees. They believed the Democrats were stacking the deck in their favor by insisting on a party ratio of five Democrats to three Republicans.

Democrats in turn accused the Republicans of deliberately blocking progress on the crime bill out of fear of losing a valuable political issue in 1992. Because of this inhospitable atmosphere, Representative Schumer announced that it was quite likely that Congress would adjourn for the Thanksgiving holidays without passing the crime bill.

On November 24, the House-Senate conference finally got down to the business of unifying the two bills. The session got off to a smooth start as both sides agreed to include the Brady bill and to strike the ban on various types of semiautomatic weapons. Because both the House and Senate bills included an extension of the death penalty to cover fifty new crimes, there was little dissension over that issue. However, largely because of their majority standing, the Democratic conferees were able to win approval of the less restrictive provisions concerning habeas corpus review and the exclusionary rule, which provoked cries of protest from Republican members. The conference committee adopted the milder House habeas corpus provision that imposed a one-year deadline on death sentence appeals, as opposed to the six-month limit of the Senate version. However, the committee approved the more restrictive revision of the exclusionary rule.

After the conference adjourned, Republicans denounced the proceeding, claiming they were steamrolled by the Democratic majority. Senator Thurmond declared, "This is a ter-

THE 1991 CRIME BILL: A CHRONOLOGY

Spring-fall 1989—In May, President George Bush unveils his $1.2 billion anticrime package. Proposals include a list of new crimes punishable by death, exceptions to the exclusionary rule, and a limitation on habeas corpus petitions. Six months later, Democratic Senator Joseph Biden introduces his own crime plan. Its provisions are not as strict and include a ban on five types of domestic- and foreign-made semiautomatic weapons.

July-October 1990—The Senate passes a crime bill with provisions to broaden the death penalty to include thirty new crimes, ban certain types of semiautomatic weapons, and impose a time limit on habeas corpus petitions. The House of Representatives passes a crime package that, unlike the Senate version, includes a racial justice clause for death row inmates but excludes any gun control provision.

November 1990—A standoff between House and Senate conferees over capital punishment and gun control produces a watered-down bill called the Crime Control Act of 1990 that deals with bank fraud and child abuse. President Bush signs the bill but urges Congress to take up the issues again in the next term.

May-June 1991—The House passes the Brady bill, 239-186. President Bush says he will sign the law if it is part of an acceptable crime package. In June, the Senate approves a compromise version of the Brady bill, calling for a five-day—instead of a seven-day—waiting period for gun purchases.

July 11, 1991—The Senate passes the Violent Crime Control Act of 1991. Provisions include the Brady bill, an extension of the death penalty to cover fifty-one capital crimes, a ban on nine types of semiautomatic weapons, a six-month time limit on habeas corpus appeals, and a "good faith" clause to the exclusionary rule on the condition that a search warrant was obtained and later found invalid.

October 22, 1991— The House passes its version of the Violent Crime Control Act. Unlike the Senate measure, the broader "good faith" clause to the exclusionary rule that President Bush had called for is included, but the bill contains a less restrictive habeas corpus revision.

November 1991—A House and Senate conference agree on a compromise bill. Provisions include a list of fifty new crimes punishable by death, the House's habeas corpus revision, and the Senate's exclusionary rule and Brady bill measures. Republicans assail the agreement and call it "procriminal." President Bush promises to veto the bill if passed. After the House narrowly passes the bill, the Senate drops it from consideration after supporters fail to collect enough votes to end debate and prevent a Republican-led filibuster.

rible bill. This bill extends the rights of criminals. I'll take any step I can to stop it." Senate Republicans argued that protecting a convicted murderer's right to endlessly appeal his or her death sentence would make a list of new capital crimes irrelevant. President Bush agreed that the bill would "weaken our criminal justice system," and vowed to veto the measure if Congress passed it.

CONGRESS ABANDONS THE CRIME BILL

Faced with a probable veto, House Democrats nonetheless scrambled during the last two days of the session to pass the bill agreed to in conference. Democratic leaders made last-minute lobbying efforts to persuade liberals to accept the death penalty clause and conservatives to agree on the less-restrictive death row appeals revision. President Bush's veto threat provoked the Democrats to support the bill and force the president to answer to the American people after he vetoed it. On November 27, the day before adjournment, the House narrowly passed the bill, 205 to 203.

However, the Senate effectively killed the 1991 Crime Bill on the same day when Democrats failed by eleven votes to cut off debate, making a Republican-led filibuster inevitable. "This is the toughest crime bill that has ever come before the Senate," Senator Biden responded, "and now it's dead."

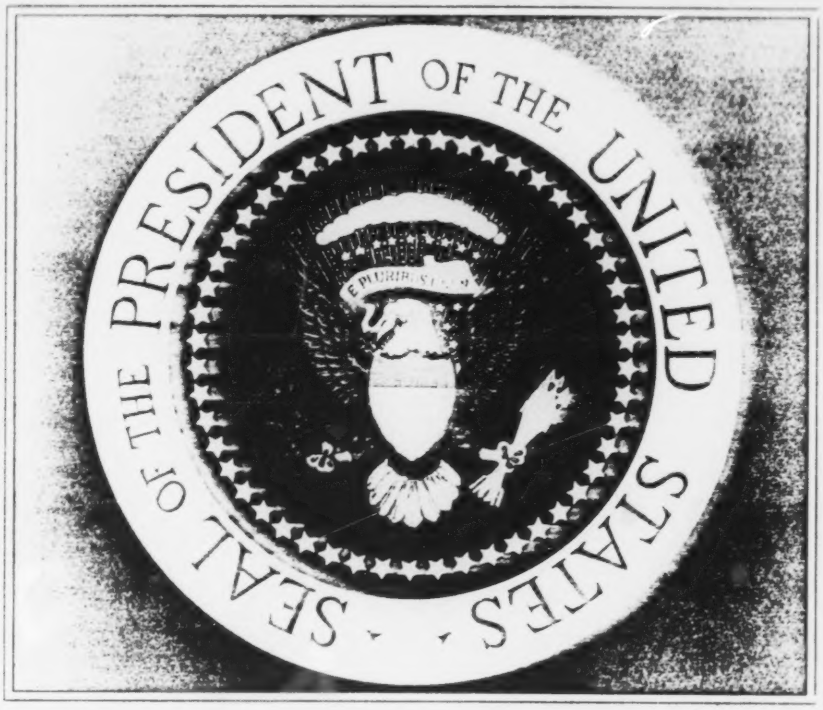
As Congress adjourned on November 27, the finger pointing began. Democrats were suspicious that President Bush and the Republicans deliberately sabotaged the crime bill so they could use the issue to their political advantage in 1992. President Bush recently had watched his popularity dissolve because of the public's perception that he had no substantive domestic policy agenda. The president, said the Democrats, wanted to take his "get tough on crime" act on the campaign trail as a way to bash liberals in Congress. Had the 1991 Violent Crime Control Act been passed and signed, the issue would have lost much of its political value.

Republican leaders replied that the Democrats were attempting to pass a criminals' rights and gun control bill disguised by useless death penalty laws and a lot of tough talk. They accused Senate and House Democrats of using the legislative process not to contribute to America's war on crime, but to bury their soft-on-crime public image.

Both parties and the White House announced that they would once again introduce new anticrime legislation in Congress in 1992. However, many House and Senate members said they had little reason to believe that any new proposal will be able to avoid the political grandstanding and partisan bickering that sealed the fate of the 1991 crime bill. Although the Congress's two-year debate over how to combat crime in America failed to produce a comprehensive bill, it succeeded in preserving violent crime's status as one of the most potent political issues of the 1990s.

CHAPTER 3

THE PRESIDENCY


SEAL OF THE PRESIDENT OF THE UNITED STATES
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CHAPTER 3

THE PRESIDENCY

Article II of the Constitution creates the executive branch of government, which is headed by the president. The president is the only elected official who represents the nation as a whole, rather than its constituent parts. As such, the president often becomes the focal point for American government, even though federal power is distributed among three branches. The articles in this chapter examine various aspects of the presidency—both the person and the position.

In an exclusive interview with Close Up, President George Bush discusses major events in his presidency and the nature of presidential power. President Bush describes how his previous jobs have prepared him for the presidency, how he makes decisions, and how line-item vetoes would make his job easier. He also addresses the challenges that America faces, both in foreign and domestic policy.

How presidents work with Congress is crucial to their success in office. The president proposes, but Congress disposes. Senator George J. Mitchell, the majority leader of the Senate, points out that the Constitution gives the president and Congress differing, and often conflicting, powers. The Constitution, says Mitchell, was designed to prevent a president from becoming a king.

Presidents come and go, but the media have a permanent encampment at the White House. Helen Thomas, the White House bureau chief for United Press International (UPI), has covered seven presidents since 1960. She knows firsthand that a president "is but a temporary tenant beholden to the people." Thomas recalls John F. Kennedy's enthusiasm, Lyndon Johnson's storytelling, Richard Nixon's trip to China, Gerald Ford's ski vacations, Jimmy Carter's small-town roots, Ronald Reagan's protected image, and George Bush's jogging invitations.

Why would a person decide to run for president? Representa-

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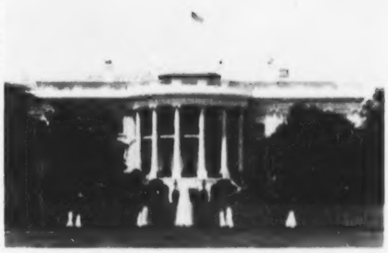
tive Patricia Schroeder, a congresswoman from Colorado, provides a firsthand answer to that question. She describes the factors that pushed her toward the presidency in 1987 and that later made her decide not to run. In the end, her desire to place the American family at the forefront of the national agenda could not outweigh her concerns about timing and fundraising. Representative Schroeder also speculates about a woman's chances of being elected president.

What is the nature of presidential power? Political commentator William Schneider argues that the authority of the presidency lies not so much in the office itself as in the personal relationship between each president and the American people. This "personal presidency" is unlike a parliamentary system in which the political party, not a particular individual, is the real source of power. The president thus becomes the state personified, says Schneider, and the presidency comes dangerously close to being a monarchy.

The president and Congress share power in wartime. But what is a president's authority as commander-in-chief without an official declaration of war by Congress? During the Cold War, the Korean War, and the Vietnam War, presidents deployed U.S. troops without formal congressional approval. Congress passed the War Powers Resolution in 1973 to reassert its authority. This chapter's case study examines the evolution of this conflict between the president and Congress and evaluates how the War Powers Resolution operated during the Persian Gulf War.

Regarding the relationship between Congress and the president, Woodrow Wilson argued: "The president is at liberty, both in law and in conscience, to be as big a man as he can. His capacity will set the limit; and if Congress be overborne by him, it will be no fault of the Constitution." Others have disagreed with Wilson, charging that some occupants of the White House have sought to create an "imperial presidency." As Senator Mitchell notes in this chapter, the struggle between Congress and the president is a perennial one, likely to continue as long as our Constitution endures.



Close Up Foundation/Renée Bouchard

The White House/David Valdez

President George Bush

answers questions about his administration in this exclusive interview with Close Up.

AN INTERVIEW WITH PRESIDENT GEORGE BUSH

You are now into your fourth decade of public service—having served as a member of Congress, special envoy to China, United Nations ambassador, director of central intelligence, and vice president. Which of these jobs has best prepared you to be president?

My experiences in all of these positions helped prepare me for the presidency. Our forty former presidents have come from a wide range of backgrounds, but there is one common denominator: experience in listening to the American people and answering their concerns. My former positions have exposed me to the many facets of our society and how our system of government relates to them.

Working in private business, serving as a member of Congress, and chairing the Republican National Committee gave me a deeper understanding of domestic issues. Similarly, serving as United Nations ambassador, envoy to China, and director of central intelligence prepared me for my foreign affairs responsibilities.

Each of these positions provided valuable experience, helping me to understand the concerns and interests of the American people. As I look back, exactly half of my adult life has been in the private sector, and half has been in the public sector.

What is the most important thing you think Americans should understand about your job?

Unlike any other public servant, the president is the sole representative of *all* Americans. Thomas Jefferson once said the president is the only constitutional officer who can see "the whole ground." As president, it's my responsibility to evaluate an array of competing interests from across the spectrum of American life and decide which policies best serve the overall interests of our citizens. Sometimes this means staking out positions that are unpopular but in America's long-term best interests. I'd like all Americans to know that I'm doing my level best to serve their overall interests so that our nation is prepared for the twenty-first century.

What decision you made as president has caused you to lose the most sleep?

While the presidency involves many trying decisions, the most difficult ones I or any president confronts are those regarding war and peace. Committing American men and women to combat is without question the most trying and awesome decision I've ever faced. Thomas Paine once wrote: "These are the times that try men's souls." This phrase rang so true to me during the days and months leading up to Operation Desert Storm.

Sending our sons and daughters to war made me recall the days when I was under enemy fire and witnessed the horrors of battle. But I knew then, as I know now, that our country must stand up for the cause of freedom. I am convinced that we had no choice but to act exactly as we did. Pledging American forces to combat is the most profound responsibility a president has, and I take that solemn trust very seriously.

There have been enormous changes internationally during your presidency—including the fall of the Berlin Wall, the spread of democracy in eastern Europe, upheaval in China, and the dissolution of the Soviet Union. What role do you see the United States playing on this new world stage?

We are living in times of extraordinary change. The victory in the Cold War presents an unprecedented chance to forge a truly new world—a world where the rule of law, not the rule of the jungle, governs the conduct of nations. Already, the end of the Cold War means our children no longer go to bed each night with the horrifying specter of nuclear annihilation hanging over them.

But real peace still needs to be won, and we are taking strong action to promote democracy and market reform in the former Soviet Union. To foster these goals, I recently outlined a forward-looking cooperative effort with our allies to aid the Commonwealth of Independent States.

Our success in Operation Desert Storm is a powerful testament to the world's shared interest in resisting aggression and to America's role as a leader in world affairs. In the aftermath of liberating Kuwait, the world continues to look to America for leadership. As a result, we've been able to act as a catalyst for peaceful change in that region, bringing ancient enemies together at the peace table.

Throughout our history, we've prospered when we've been guided by the philosophy of free trade; only when we've retreated into isolationism and protectionism has America stumbled. I will continue to work to open markets for high-quality American goods and services, which mean high-quality jobs here at home.

As long as I am president, the United States will continue to lead the world in support of freedom and democracy—not out of arrogance, not out of altruism, but out of concern for the safety and security of future generations.

What are the three most important domestic issues facing the United States?

Clearly, the most important issue facing America today is the economy. Progress in virtually all other areas depends on our ability to stimulate economic growth. Since taking of-

MARYLAND
NATIONAL
GUARD
WELCOME HOME

Maryland National Guard

Troops from the Maryland National Guard return home after fighting in the Persian Gulf War of 1991.

fice in 1989, I have advocated initiatives to promote economic prosperity. I will continue to work for more job opportunities for the American people.

Second, while America's health care system provides the world's finest care, most Americans agree that it is in need of reform. I have outlined an initiative that builds on the strengths of our health care system—unparalleled quality of care—while addressing where the system falls short—access and affordability. The last thing the American people want is a system that puts the government between themselves and their doctors.

Third, every American knows that our future as a nation depends on preparing our children for the challenges and opportunities of the next century. My AMERICA 2000 strategy is revolutionizing our education system. And one year after we embarked on this quest to reinvent American education, we are making solid progress: local communities and states across the nation are joining our AMERICA 2000 crusade to bring fundamental change to American education.

I'd also like to acknowledge several other problems that plague us today: crime, drugs, and the erosion of moral values. If you trace each one to its root causes, you'll see one common factor: the decline of the American family. Our country must reaffirm a simple truth: when the family comes first, America is first. The key to achieving a better future is to strengthen our core, the American family.

What have been your greatest accomplishments as president?

In the international arena, I feel confident that our victory over Soviet communism, culminating almost half a century of steadfast commitment, will be viewed by future generations as a watershed event in the history of mankind. The downfall of communism holds great promise for all people: no longer will we be as worried about the menace of nuclear destruction; no longer will we be morally obligated to check communist imperialism around the globe; no longer will we be separated by ideological obstacles that thwart the free exchange of ideas and goods. The aftermath of the Cold War presents a new challenge: to win the peace. In concert with our allies, we are taking determined action to foster free-market reform and democracy in the former Soviet Union and its former client states.

Another example of where America has taken a stand on moral principle was our leadership of coalition forces during Operation Desert Storm. Defeating Saddam Hussein's naked aggression in the liberation of Kuwait sent the message that America will stand up to global bullies and fight when principle is at stake. While some historical revisionists suggest that Saddam's survival actually represents a defeat for American-led forces, the truth is that we achieved all our goals and ceased conflict to save both Iraqi and coalition lives.

In the wake of our victories in both the Cold War and the Gulf War, only America has the stature to lead the world in the pursuit of freedom and democracy. We will continue to do so for as long as I hold office.

Domestically, when Americans look back on my administration, I hope they will remember that we unleashed a revolution to establish educational excellence for all citizens through our AMERICA 2000 initiative. Our success as a nation depends on our ability to instill the students of today—such as yourselves—with the skills necessary to forge a better tomorrow.

AMERICA 2000 will help us reach six national educational goals by the year 2000 by bringing fundamental change to our schools. This means establishing world-class standards for what students should know and be able to do and giving middle- and low-income parents the same choices of schools—public, private, or religious—that wealthier families already have. It means establishing a generation of New American Schools and providing teachers with the flexibility they need to do their jobs.

While there's still a long way to go, just one year after AMERICA 2000 was launched we're already seeing hopeful progress: forty-three states and more than 1,100 local communities have joined our crusade. We've seen the tide of public opinion turn on school choice, with at least ten states enacting major school choice legislation. It's my hope that providing America with the best education system in the world will be the ultimate capstone of my administration.

President Bush works at his desk in the Oval Office at the White House.

The White House/David Valdez

Looking back on the past four years, what would you have done differently?

I suppose we all could look back and point to things we'd do differently if we had the chance to do them over. I'd have to admit that my decision to accept certain tax increases in exchange for a budget agreement in 1990 would fall under that category. But I think it's important to remember where we were at that time.

By the fall of 1990, Saddam Hussein's army had overrun Kuwait and stood poised to invade Saudi Arabia. The United States and our allies took a firm position that this aggression would not stand. To deter any further aggression and ultimately reverse Saddam's conquest of Kuwait, we and our allies were engaged in a full-scale deployment of forces.

However, as the deployment progressed, Congress had not taken the actions necessary to fund many of the critical functions of the U.S. government. A less-than-perfect agreement was reached with Congress that, in part, provided the needed funding. At this critical juncture, when so much was riding on our ability to repel naked aggression, it would have been extremely dangerous to shut down the federal government.

It is also important to stress the positive aspects of the 1990 budget agreement. The agreement installed enforceable spending caps on discretionary domestic spending, and it instituted a pay-as-you-go regimen for new programs. These caps continue to protect the American people against wasteful government spending.

In making the budget compromise with Congress, I had hoped to preclude any further attempts to raise taxes on the American people. Unfortunately, Congress later sent me a bill that would have increased taxes and stopped our economy dead in its tracks. I vetoed that bill, and a *majority* of members of the House of Representatives voted to sustain my veto. As students of government, I'm sure many of you know it takes a two-thirds vote to overturn a veto; a majority vote to sustain is very rare, and in this case demonstrates the unpopularity of the Congress's tax hike bill.

In addition, we had to beat back attempts to remove these hard-won caps on government spending. Hindsight is 20/20, and I'll continue to hold the line on tax increases that choke economic growth while working to stimulate the economy and create jobs for the American people.

What one thing would you change in the structure of government to make your job easier?

I firmly believe the time has come for the president to have the same budgetary authority that forty-three governors currently hold—the line-item veto. In the current budgetary climate, it is unconscionable to ask the American people to bankroll pork-barrel programs that increase a given congressman's standing in his district but do little or nothing for the national interest.

This shameful practice of turning bills into "Christmas trees"—tacking on unrelated and costly components to important legislation—happens far too frequently. As a result, I am often faced with a tough dilemma: do I veto a bill because it contains pork, thereby rejecting appropriations that may be necessary for vital government services or operations, or do I sign it, knowing that a portion of the American people's earnings are being foolishly spent?

The answer to this quandary is the line-item veto. This valuable tool would allow me to hold the line on wasteful spending, forcing the Congress to justify each line of a bill. I am convinced that a line-item veto would bring needed fiscal discipline to the currently unaccountable budget process.

Until this office has line-item veto authority, I will use what are called line-item rescissions. While not as effective as the line-item veto, rescissions help protect the taxpayer from spending excesses by bringing a measure of accountability for congressional spending. The law has specific provisions that allow concerned legislators to force the Congress to justify individual aspects of legislation by compelling line-by-line votes, bringing us closer to the accountability and power of the line-item veto.

How do you make decisions? How do you weigh various factors, including your advisers, the cabinet, public opinion, the media, and interest groups?

Paramount to my decision-making process is considering what will help our nation prosper and offer rewarding lives for all Americans. The most useful way I know to understand the concerns of the American people is face-to-face contact—whether here at the White House or during my visits throughout the United States. Since taking office, I have visited all fifty states, hearing firsthand people's thoughts and concerns.

In addition, I receive thousands of letters each day. Mail is very important in keeping me up with how people feel. I also follow the media very closely, reading several newspapers and watching a number of news programs daily. The media serve as an important conduit to the American people, helping me to learn about people's problems and allowing me to communicate my policies back to them.

While public opinion is important, a president often needs to take actions that run counter to the polls. Opinion polls sometimes support a direction that is not in our ultimate best interest. It's my responsibility to make informed decisions based on what my core instincts tell me and to take stands on what I believe in. You don't want to be so out of step with the country that you can't lead it, but you've got to have an opinion, act on it, and then explain your reasons to the American people.

I'm fortunate to be supported by a superbly qualified and experienced administration. Members of my cabinet provide policy direction on issues relating to their departments' responsibility, bringing the most significant concerns to my attention. The talented members of my team help me formulate policies that best serve the American people.

As students of government, you certainly know that the entire world looks to America as a model of democracy. The core of America's democracy is its participatory nature. Our strength is founded on the principle that the government serves the interests of the people.

Maureen Keating

Senator George J. Mitchell

(D-Maine) is the majority leader of the U.S. Senate. He has represented Maine in the Senate since 1980 and previously served as a federal judge.

CONGRESS AND THE PRESIDENT

There's an enduring American political debate about the proper role of Congress and the president. That's because the people who wrote the Constitution were determined to prevent the emergence of an American king.

When the Constitution was written, most of the world's leading nations were monarchies. The American founders wanted to create a system in which no one person, no one group, no one institution could gain total power. They succeeded brilliantly. In 200 years, we have had forty-one presidents and no kings.

Their success came at a price. Instead of a parliamentary system, in which the prime minister *must* be a member of the majority party in the legislature, our system lets Americans elect a president of one party and a Congress with a majority of the other party.

Americans have exercised that right. For the past two decades, with two brief exceptions, the president has been a Republican and the Congress has had a Democratic majority.

The political party split between the president and Congress is often blamed for the problems of government. But that's a short-sighted view that looks only at the problems of the past twenty years and ignores the other 180 years of our nation's existence.

The reality is that the powers of the Congress and the president are different. They were intended to assure that neither the president nor the Congress could have its way every time. But, of course, that means that much of the time, presidents and Congresses disagree about what each of them is empowered to do.

For instance, the Constitution gives Congress the power to declare war. It makes the president commander-in-chief of the armed forces. This means that only Congress can make the decision that a state of war exists between the United States and another nation, and that only the president has the right to supervise the actual conduct of hostilities.

But that didn't stop President George Bush from claiming in 1990 that he had an unrestricted right to commit our nation to war in the Persian Gulf without a decision by the Congress. In that case, Congress avoided the danger of a constitutional confrontation by voting on the issue.

Congress can pass a law, but the president runs the executive branch and has the power to put the law into effect. Congress's power is limited to passing laws and to the oversight of how they work.

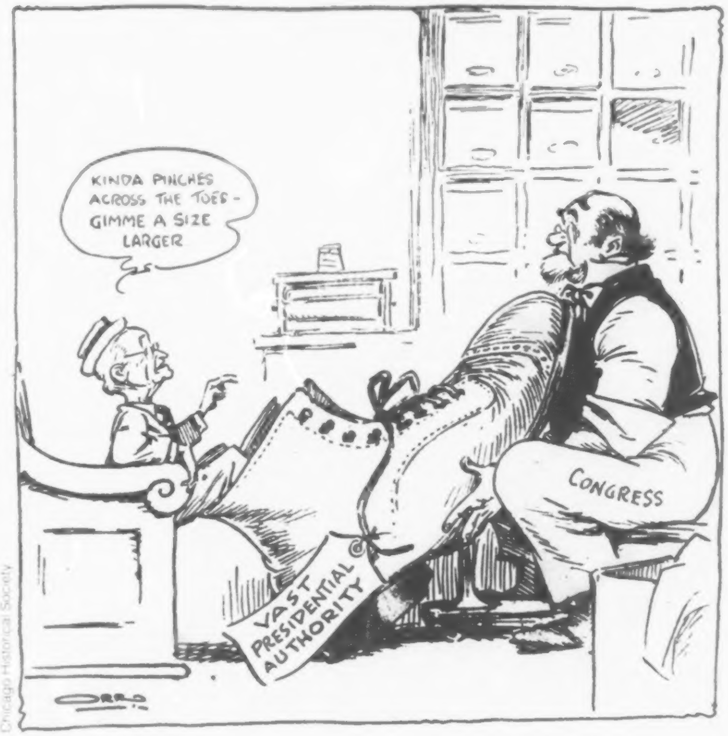
For instance, Congress wrote a law several years ago saying that Medicare premiums for low-income elderly people should be paid out of the federal funds that go to each state for health care purposes. But the executive branch didn't publicize this new benefit. People who could have saved several hundred dollars a year didn't know about it, so they didn't apply for it. As a result, a law that almost every American would agree is worthwhile and important to low-income older Americans isn't having the effect it could have.

Presidents like to complain about regulations. But regulations are written by the executive branch agencies, which presidents control, not by the Congress. Presidents can readily require regulations to be rewritten.

Presidents often like to say Congress is at fault for problems, but often the problem lies in the fact that everyone wants to write policy, while no one wants to do the hard work of following through. Under our Constitution, the Congress writes the law, and it is up to the president to see that the laws are "faithfully executed."

But in our system, there are greater rewards for making policy than for following through. And there are almost no penalties for failing to follow through. In practice, therefore, the focus of Congress and the president is on making policy—writing laws. Congress doesn't have the obligation or the right to put laws into effect, but presidents who neglect that side of their obligations aren't often held accountable under our system, either. That's a real problem that has become more serious as the role of the presidency has expanded.

NEWS ITEM: TRUMAN REQUESTS MORE POWERS


KINDA PINCHES ACROSS THE TOES - GIMME A SIZE LARGER
CONGRESS
VAST PRESIDENTIAL AUTHORITY
ORR

Chicago Historical Society

The founders thought that the legislative branch should be the guiding body for our nation. At that time, mistrust of monarchs and faith in legislative bodies, such as the English Parliament, were at their height. The emergence of the idea of individual political liberties, as well as their own experiences during the Revolutionary War, made the founders especially cautious about granting power to a single person.

At the time, a variety of ideas were proposed, and abandoned, to have "councils" of various sorts, whose function would be to advise—as well as control—the president. In the end, the Constitution provided for a single president with broad discretion, but the most generous and explicit powers were granted to the Congress.

Changes in the world that the founders could not have foreseen have made the presidency far more influential in our system of government, although the formal powers of each branch in the Constitution have not changed. As a result, those who occupy the presidency are constantly seeking to expand and consolidate as much authority as possible.

The president is the only person elected by the entire nation. That gives the president immense authority politically. But it also makes the president very visible. Members of Congress are elected by congressional districts; senators are elected by states. This means that, individually, they don't have much personal authority. But it also means that, individually, they don't take as much personal blame or get as much personal credit.

Presidents have to make careful judgments about how best to use their constitutional authority to buttress their political authority. These calculations often cause conflicts with the Congress. It's a mistake to think that this is a new development.

Fifty years ago, President Franklin Roosevelt tried to reassure Americans that the war that broke out in 1939 in Europe would not affect us while, at the same time, he channeled military aid to Great Britain. Of course, in that case, America joined the war in 1941 after the bombing of Pearl Harbor, so in hindsight, most of us agree that Roosevelt did the right thing.

Presidents have to judge not only how their actions may look in hindsight, but also at what cost of public credibility they can afford to act. That's a factor in our system that shapes how the president and the Congress respond to each other, and it's a factor that's there regardless of whether the president and Congress are of the same political party.

The factors that influence congressional behavior are very different from those affecting the president. Because there are 535 members of Congress, every member knows that he or she will never be able to write a law exactly tailored to his or her specifications. Compromise is not just important, it's inevitable. Every president in history has sent a bill to Congress and then has complained that it wasn't approved unchanged. But that's a foolish complaint. Congress doesn't rewrite just presidential proposals; Congress rewrites *everyone's* proposals, including those of its own members, because all 535 members believe they have an obligation to what their constituents expect. That's the nature of a representative democracy.

When government is divided between the parties, the institutional conflicts that are built into the presidential and legislative offices are exaggerated by partisan political factors as well. That's the nature of our competitive political system. It means that often our government doesn't seem as efficient as other forms of government. However, the basic purpose of our system of government isn't efficiency, but individual liberty.

A government efficient enough to clear away all disagreement and dissent is a government powerful enough to silence anyone who questions its goals. That's exactly what we don't want to have and what we have been able to avoid for two centuries. We avoid dictatorship at a price, and that price is occasional inefficiency. But when most Americans think about the alternative, we agree that it's a price we're prepared to keep paying.

United Press International

Helen Thomas

is the White House bureau chief for United Press International (UPI). She has covered seven presidents since 1960, the longest unbroken White House assignment of any journalist.

THE BEST BEAT IN THE WORLD

The White House is the very best beat in the world for a reporter. Somehow, some way, everything that affects the country and the world seems to land in the Oval Office, no matter who the president or what his or her political party.

Of course, the job has always been held by men, but that may not always be so in the future. Personally, I've always believed that every little girl could grow up to be president.

Through the years I have learned that there is no such thing as an instant president. It takes on-the-job training, personified by blood, sweat, and tears.

A newly inaugurated president is always given a honeymoon by the public and the press. Until he or she settles into the White House and gets acclimated to life in the official fishbowl, there is a temporary reprieve from the slings and arrows bound to be aimed at him or her.

Depending on their popularity and the initial moves they make, presidents can have a long honeymoon or a very brief one. In the case of Presidents Ronald Reagan and George Bush, the honeymoons were long, and they both basked in the sunlight of high popularity ratings in the polls. Former President Jimmy Carter probably had the shortest honeymoon on record, and it was not long before he was targeted for heavy criticism.

Reporters give presidents some running room, and then it's time for "gloves off." But then presidents are pros enough to know that they get the glory and the blame in the highest office in the land.

There is nothing more impressive than a president taking the oath of office with his or her hand on the family Bible, held by his or her spouse. In that oath, he or she promises to faithfully uphold the laws of the land. Too often, that pledge is forgotten when a president wants to make end runs around the law.

Justice Louis Brandeis said some fifty years ago that if the government becomes a lawbreaker, it breeds contempt for the law. Presidents hold the public trust. To betray that is to betray the country.

Therefore, nothing is more disappointing than to see that oath distorted as the power of the presidency takes over, and the man or woman in the office forgets that he or she is but a temporary tenant beholden to the people.

I freely acknowledge that every president probably wants to do the right thing. But Lyndon Johnson, the besieged president of the sixties and the Vietnam War, used to ruefully observe that it is easy to do the right thing if you know what the right thing is. And that is the rub when it comes to complicated issues that a president faces every day.

Every president I have covered has wanted to go down in the pages of history for greatness, but greatness demands a profile in courage and often a president cannot rise to the occasion. History is sometimes not too forgiving a judge. On the other hand, for many presidents, time has mellowed the perception of their administrations, and they have fared better than they did under contemporary judgment.

Credibility is an absolute requirement for a good president, for above all he or she must be believed in order to persuade, convince, and govern. Accountability is another matter that is the *sine qua non* of holding public office, especially the presidency. It means that a president must be able to explain and defend his or her policies and actions. And that is where the presidential news conference comes in, because it is the only forum in American society where a president can be questioned on a regular basis.

Presidents fare better when they have goals, dedication, and a philosophy that defines them to the nation. The goals hopefully will be for the betterment of humankind. After all, a president is a public servant, the employee of you and me, irreverent as that may sound. It is his or her job to serve the people and to put the people first.

Presidents are very well taken care of in the White House and forever after. They lack for nothing in the material sense. They are protected and enjoy all the imperialistic trappings that symbolize the presidency. They are not royalty, but they often come close to the realm in that awesome office.

I never waste my sympathy on presidents. They covet the job at all costs. No one begs them to take the highest office in the land. It represents the greatest honor that the nation can accord to anyone, and that is to hold the public trust.

The highest office in the land has often been called the loneliest job in the world and, as Thomas Jefferson dubbed it, "the splendid misery." Despite the stresses and strains, the sleepless nights, the agonizing decisions, few presidents have resisted seeking reelection. Defeat often represents the most traumatic experience of their lives.

There are many instances in history when a president has had to change his mind and erase past positions for the good of the nation. When President Lyndon Johnson pushed for revolutionary civil rights and voting rights legislation to cover all the nation's citizens, particularly the disenfranchised blacks, his south-

George Bush became the nation's forty-first president on January 20, 1989, when he swore to "preserve, protect, and defend the Constitution of the United States."

The White House/Susan Biddle

ern colleagues demanded an explanation. They got it. "I'm president of all the people now," Johnson told them.

Presidents must lead, but they must also follow, or they lose the people. They must make momentous decisions in war and peace. It can only be with trepidation that they assume the mantle of the presidency.

I have many memories of the presidents I have covered.

The first president I covered on a day in, day out basis, for what seemed sometimes like eight days a week because of his energy and enthusiasm for the job, was John F. Kennedy. He was inspired, and loved to tell young people his definition of happiness taken from the Greeks: "the fullest use of one's abilities along lines of excellence."

Kennedy was warm and witty. His news conferences became the best show in town. He died tragically, and the world wept. Reporters were crying as they filed their stories. He set a goal to land on the moon. We did it, but he never lived to see it.

Lyndon Johnson had a love-hate relationship with the press. He often put me in the deep freeze when I would write stories he did not like. But Johnson often invited us to the LBJ ranch in Texas. We would ride in his limousine and take long walks with him. He was accessible and was a spellbinder in the storytelling department.

Johnson was also the best political campaigner I have ever covered: we would go fourteen hours a day, six stops in a day, ending at midnight. Johnson would be hoarse from speaking into a bullhorn all day on the campaign trail.

Richard Nixon was very uncomfortable with reporters. The greatest story with Nixon, before the Watergate scandal, of course, was when he decided to make the breakthrough trip to China in 1972.

All the reporters wanted to go, but only a limited number could do so. I was among the lucky few who made that trip. It was like landing on the moon, and we wrote stories for eight days straight. Everything we saw was a story because everything was new to a world that was not familiar with communist China. It had been cut off from the western world for some twenty years.

Gerald Ford was easy to cover. He was friendly and liked reporters. He would go to Vail, Colorado, every Christmas with his family, and the press corps would go along. Ford only had two years in the White House, but he gave it his best shot.

Jimmy Carter was more reclusive. But we did spend a lot of time in Plains, Georgia, his hometown—a village really. And we got to know everyone on Main Street and all of his family as well. Carter would drop in on all the stores in town on a Saturday morning, and we would trail along, falling all over each other. It's always good to see a president go back to his roots to see what makes him tick.

Ronald Reagan was totally protected. Although he had a great sense of humor, he was much more difficult to get to know because his imagemakers did not want reporters to get close to him. Reagan—more than anyone else—made the public more conservative and less caring about their fellow human beings.

George Bush is friendlier, and a real jock. He loves all sports—golfing, boating, fishing. And he has had more news conferences than any recent predecessor. He is easy to talk to and knows the reporters by their first names. He often invites reporters to go jogging with him. He knows better than to ask me.

For its more than 200 years of history and forty-one presidents, the nation has been blessed. The democratic system works with all its flaws. Winston Churchill said that democracy is the worst form of government except for all the others that have been invented. A good president remembers that.

Denver Post/Jim Richardson

Representative Patricia Schroeder

(D-Colo.) has served in the House of Representatives since 1973. She is chairwoman of the House Select Committee on Children, Youth, and Families.

WHY RUN FOR PRESIDENT?

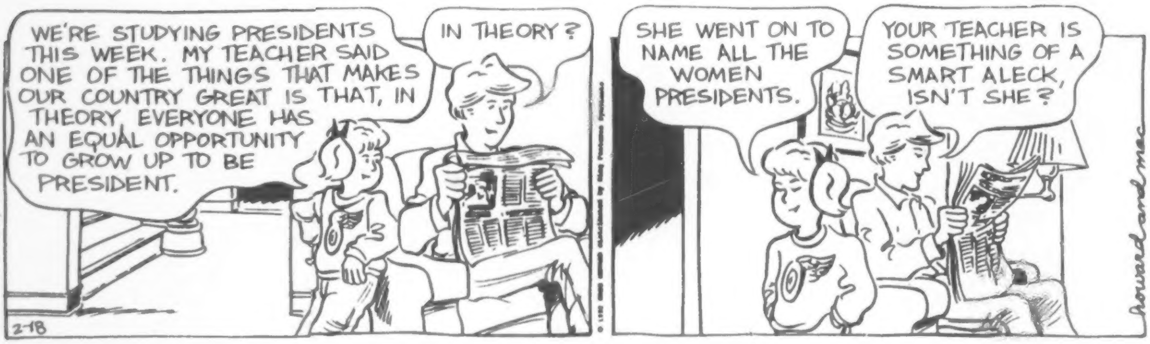
What began on June 5, 1987, as an exciting quest for the presidency of the United States ended three months later, on September 28, as a search for Kleenex.

Entering the presidential primary race had been, earlier in the year, the farthest thing from my mind. But then my fellow Coloradan Gary Hart, whose campaign I was cochairing, made a stupid and costly mistake. After daring the press to "go ahead and follow me"—and thus prove that his reputation as a womanizer was false—he was caught in a compromising association with Donna Rice.

After the Hart furor subsided, friends and supporters began to urge me to take a look at the race. Then in June, less than a month after Hart dropped out, my "look at the race" exploded on the front page of *The New York Times*, on the hourly television news reports, and in newspapers and magazines across the country.

The questions other candidates had considered much earlier and in private I began to explore publicly, under bright lights, in a process that was for me a great, though extremely challenging, experience. I was grilled by editorial boards, cheered by crowds, and evaluated by political pundits. I was running as Patricia Schroeder, a member of Congress with fifteen years' experience, but automatically I was seen as Everywoman, advancing the struggle of women for a stronger voice in government. Like it or not, my potential candidacy for the highest elected office in our country was going to be a hook for America-watchers, political analysts, and newspaper columnists to appraise the progress of women in this country. I countered their probing questions with my own opinion that "America is man enough to back a woman."

A few months later, on that Monday at Denver's Civic Center, I was anxious to get on stage and come clean to my supporters. It was time to tie up the loose ends of the campaign. I was ready to get back to the job I love—being the congresswoman for Denver. Jim, my husband of more than twenty-five years, knew I had been leaning against continuing in the race. He had been hustling all the legal expertise and political acumen he could to try to convince me to run. People were stunned by his enthusiasm and confidence. They had expected him to be against the idea. That might be some husbands' reaction, but my husband was responsible for my getting into politics in the first place.


WE'RE STUDYING PRESIDENTS THIS WEEK. MY TEACHER SAID ONE OF THE THINGS THAT MAKES OUR COUNTRY GREAT IS THAT, IN THEORY, EVERYONE HAS AN EQUAL OPPORTUNITY TO GROW UP TO BE PRESIDENT.
IN THEORY?
SHE WENT ON TO NAME ALL THE WOMEN PRESIDENTS.
YOUR TEACHER IS SOMETHING OF A SMART ALECK, ISN'T SHE?
2-18
howard and mac

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I knew there were several factors that had to be in place before I could stage a confident run for the presidency. First, I needed a substantial amount of money—about two million dollars—so that I could wage and win a full-scale national campaign. (They didn't give discounts for latecomers!) I refused to conduct a campaign in the red. How could I go around the country speaking out against the national debt if I was running up a debt myself?

Second, I needed a cadre of savvy and creative organizers who could quickly put in place an effective and cost-efficient campaign and who would understand my direct style. Otherwise, I'd end up with Potomac professionals who would spend their time trying to mold me into their idea of what a candidate should be.

I was entering the campaign way behind schedule. Could I jump-start the kind of organization other candidates had spent years assembling and planning? Further, I would run only if I thought I had a good chance to win. It would not be a symbolic campaign. There was a tendency, from the very beginning, for the press to categorize me as a "women's candidate." Would the country see me that way or view me as a presidential candidate who happened to be a woman? I did not want my gender to block my message.

My decision not to run was based on these political considerations. When I looked at the situation early in the fall, I knew that I didn't have the pieces in place for the professional campaign I wanted to run. I had about one million dollars in the bank, but that was not enough to mount a credible nationwide campaign and to hire a top-notch staff.

Further, while Americans are making progress toward accepting the idea of a woman president, women still don't "look presidential" to many voters. At least, I didn't. My laugh, my signature, my mannerisms, were seen as too feminine. I was told that in politics boyish charm is fine, but girlish charm is out of place.

People predicted that the first woman president would be a tough character, "weaned on a pickle"—in other words, just like a man. I hope they're wrong. I don't think men have a lock on the correct way to run the Oval Office. In fact, though women might not do a better job, they could hardly do it worse.

In the end, my pragmatism prevailed. Walking onto the stage to address hundreds of supporters on that perfect September day in Denver, I knew the speech was going to be tricky. My message was a paradox: my summer exploration has been so successful that I am not going to run. I could see people scratching their heads. I wanted to make it clear that I had learned that the presidency was not necessarily out of my grasp, but that to win would take a lot more preparation and time and money than I had.

When I reached the crucial part of my Denver speech and said that I would not be running for president, the crowd groaned. That's the only way to describe it. People shouted, "no, no," and began to chant "run, Pat, run." I was unprepared for the crowd's powerful reaction. Those fabulous supporters had given up their summer weekends as well as their dollars to my campaign. I was honored and moved, but my heart sank.

I rarely show emotion in public. That day, I felt I was in command—sure of my decision and of the crowd's ultimate understanding. But when I heard the audience groan, I began to cry. I knew then that I had underestimated how much I wanted to pursue the presidency. I went on with my speech, but, I'm sorry to say, it was my tears, not my words, that got the headlines.

One good result of my tears was that crying came out of the closet. The stories poured in. Washington superlawyer Joe Califano told me that during his farewell speech after President Jimmy Carter fired him from the Department of Health, Education, and Welfare, he cried uncontrollably. A constituent wrote and reminded me that President Lyndon B. Johnson sobbed through a civil rights ceremony at the White House. A lobbyist sent me the story of George Washington's farewell dinner with his Revolutionary War generals, when there was hugging and crying all around the table.

For weeks afterward, there were columns pro and con my reaction. Some writers went so far as to say that my tears had dampened all hopes for women in presidential politics for the rest of this century! The critics who seemed most insane to me were those who said they wouldn't want the person who had a "finger on the button" to be someone who cries. I answered that I wouldn't want that person to be someone who *doesn't* cry.

The press furor overshadowed the valuable lessons I learned during the summer of 1987. People want the American family to thrive, and they are deeply worried about it. Most other countries of the developed world do much more to help families than we do, *and* they have better statistics on divorce, infant mortality, and adolescent problems. I think there's a connection. The time has come for politicians to focus on a national policy that reflects the realities of today's family life and not the romanticism of the past.

The economic stress of maintaining the American dream—house, car, college, health insurance, and the rest—has driven many, many women out into the workplace and has sharpened the conflict between the demands of work and the needs of the family. The American people are justified in asking their government for help with their problems. Other countries did this long ago. We must now "play catch-up," and do it fast. Too many of our families are hurting.

That's why I wanted to be president.

Adapted from Champion of the Great American Family *by Patricia Schroeder.* *Copyright 1989 by Patricia Schroeder.* *Reprinted by permission of Random House, Inc.*

American Enterprise Institute

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THE PERSONAL PRESIDENCY

In his book *The Personal President*, political scientist Theodore J. Lowi describes America's current political system as one with a "personal presidency." The president derives his authority, Lowi argues, from a direct, personal relationship with the American people. Moreover, he writes, "The president and the state are the same thing, the president is the state personified."

It is a situation not entirely unlike that of France in the days of the Sun King, Louis XIV, who centralized all political power in the person of the monarch. *"L'état, c'est moi,"* Louis declared. ("I am the state.")

Unsettling parallels abound: late seventeenth-century France was no less preoccupied than late twentieth-century America with the sovereign's every movement, his health, happiness, intellect, character, and tastes. The intrigues of Washington are not dissimilar to the intrigues of Versailles. A bloated press corps reports the jealousies and infighting of the president's staff—"courtiers"—as important news.

In the seventy-two years in which Louis XIV ruled France, the number of royal counselors grew from sixty to 300. In the fifty years since Roosevelt's first term, the White House staff has grown from 157 to 592.

Worse, the personal presidency shares one of the continental monarchies' worst flaws: if power is vested in a single person, what happens when that person is no longer around to exercise it? As a later Louis said, *"Après nous le deluge."* ("After us, the flood.")

Mindful of such failings, European democracies developed parliamentary systems in which power is exercised by political parties. Parties replaced personal power with collective responsibility, just as modern U.S. corporations have largely replaced individual entrepreneurs.

Thus, Europeans are constantly amazed at the personalization of the American president's power. For example, they find the detailed attention given to a president's medical problems and bodily functions unseemly. Europeans cannot understand the media's continual scrutiny, not just of chief executives, but of their family and friends.

They are amused and somewhat shocked by the elaborate public relations apparatus associated with the modern presidency, and by White House efforts to sustain a favorable presidential image as if the very integrity of the state depended on the public's "liking" the president.

In fact, it does. The modern president's authority essentially derives from his or her status as a popular hero. The president alone represents the entire American people against the divisive and sinister "special interests" that dominate Congress.

European prime ministers, on the other hand, govern in the name of a party, which is the real source of authority. If a prime minister gets into personal difficulty or proves to be an ineffective leader, power can be transferred to another party leader without creating a political crisis.

In the American system, it is much harder to transfer legitimacy. A president's power is personal; it must be established directly with the American people and cannot be transferred, even to a chosen successor from the same party.

In fact, the rise of the personal presidency has a lot to do with the decline of political parties, begun during the Progressive era early in this century. Progressives set out to reform U.S. politics by destroying the entrenched, often corrupt, power of political parties. To a considerable extent, they succeeded. Parties do not create presidents any more. Presidents like Franklin Roosevelt and Ronald Reagan create parties.

At the same time that parties were being weakened, the New Deal gave rise to an immensely strong central government. Since political parties were in disrepute, they could not control and direct the federal government's greatly enhanced power. Roosevelt, a strong president, could. His successful prosecution of World War II also enhanced the presidency's prestige.

During the postwar era, the presence of nuclear weapons has furthered this process. A president who has, in the popular mind, power "to destroy the world" is a much more imposing figure, and considerations of temperament and character seem much more consequential.

Thus, the relationship between the president and the people has become a direct and personal one. Questions of trustworthiness and character that seem relatively unimportant when a candidate is running for, say, senator from Massachusetts, become matters of immense importance in a presidential campaign. A president, unlike a senator or governor, must be a popular hero.

The recent vogue for anti-establishment politics is consistent with this image of the presidency. American heroic figures are always anti-establishment. Both presidents Jimmy Carter and Ronald Reagan were elected in large part because they were anti-Washington.

The president, therefore, must manage his image very carefully, not out of vanity but because it is the source of his political authority. Moreover, the principal checks on presidential power are not, as the textbooks allege, Congress, the courts, the opposition party, or state and local governments. The principal counterweight is the institutionalized power of the national press.

The press is the only institution that stands between the president and the people. The press does not simply convey the president's image to the public. It also acts as the people's voice in questioning and criticizing presidential actions. Thus, the White House apparatus that deals with the press—the Office of Communications—is much more elaborate than its mechanism for dealing with Congress—the Legislative Liaison.

But the personal presidency has done more than create new institutions and bureaucracies. Because it has centralized and personalized power in the hands of an inevitably fallible—and mortal—individual, it has made American politics much more unstable and chaotic. Because legitimacy and, therefore, power cannot be easily transferred, America's domestic and foreign policies lack the continuity many believe is essential to a great power.

Lowi contends that such fundamental changes in the political system constitute the *de facto* establishment of a "second American republic." If so, the dangers arising from the personal presidency point to flaws in the current system every bit as threatening as the rigidity and venality of the traditional political parties.

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CASE STUDY

The Presidency

THE PRESIDENT AND THE WAR POWERS RESOLUTION

by Tim Walker

The power to commit the United States to war against another country has been a source of conflict between Congress and the president for 200 years. This case study traces the roots of the struggle and examines the tense wartime relationship between the two branches of government throughout the twentieth century. As you read, try to answer these questions:

- *What does the Constitution say about war powers? What did its framers set out to avoid?*
- *What international developments in the late 1940s allowed the president to take control of war powers?*
- *Why did Congress pass the War Powers Resolution in 1973? Why did President Richard Nixon veto it?*
- *How have presidents avoided being tied to the provisions of the resolution?*
- *Why was Congress unable to act decisively before the Persian Gulf War?*

Close Up Foundation/Renee Bouchard

> The men who wrote the Constitution had as a central purpose the prevention of tyranny in America. They succeeded by creating a government with separate institutions and divided powers. They also knew that the decision to commit the nation to war should not be left in the hands of one man. The clear intent was to limit the authority of the president to initiate war. Our subsequent history has borne out their wisdom.
>
> Senator George Mitchell
> (D-Maine) from the Senate
> floor debate on U.S. policy
> in the Persian Gulf,
> January 10, 1991

Senator Mitchell's remarks reflect his belief that no matter how just the goals of the United States were in liberating Iraqi-occupied Kuwait, the president had no legal authority to commit the country to war without prior authorization from Congress. Conversely, President George Bush believed that he needed no such authorization. After heated debate, Congress eventually approved a resolution authorizing the president to order the use of military force to remove Iraq from Kuwait. The Persian Gulf crisis was the latest episode in the 200-year-long conflict between the executive branch and the legislative branch over which is best suited to design and implement U.S. foreign policy.

This conflict stems from language in the Constitution that gives both the president and Congress enormous powers. The framers of the Constitution delegated to the president the roles of commander-in-chief of the armed forces, chief negotiator of treaties, architect of alliances, and designator of ambassadors. On the other hand, Congress was given the power to declare war, to approve treaties, and to allocate funds—the so-called "power of the purse."

Thus, the Constitution divides foreign policy authority between the branches of government, resulting in what historian Edwin Corwin termed "an invitation to struggle for the privilege of directing American foreign policy." Throughout the nineteenth century until the middle of the twentieth century, Congress forged a partnership with the president in directing U.S. involvement in foreign affairs. For the most part, however, the United States did not have a consistently active role overseas. Even after World War I, the nation retreated to an isolationist course, preferring to concentrate its resources on domestic matters. However, World War II transformed the United States into a global superpower, allowing presidents to dramatically take control of foreign policy and make national security decisions.

One of the most controversial elements of the making of foreign policy is the tug-of-war between the president and Congress over which branch has the constitutional authority to commit the United States to wage war against another country. Sending American troops to fight abroad is perhaps the gravest decision U.S. government officials can make. The magnitude of this responsibility has intensified the debate over war powers among legal scholars and strained the relationship between the president and Congress.

CONSTITUTIONAL INTENT

The origin of the controversy over who decides to wage war dates back to the Constitutional Convention of 1787. The framers of the Constitution were wary of what they called an "imperial presidency"—a powerful chief executive with free rein over the military. They believed such power could lead to tyranny and abuse. Therefore, to separate powers, the framers divided war-making authority between the president and Congress. Article I, section 8, gives Congress the "power to declare war" and "raise and support armies." And, according to Article II, section 2, "the President shall be Commander in Chief of the Army and Navy of the United States . . . when called into the actual Service of the United States." By distributing war powers this way, the framers believed that they were promoting peace rather than war. In other words, a powerful Congress,

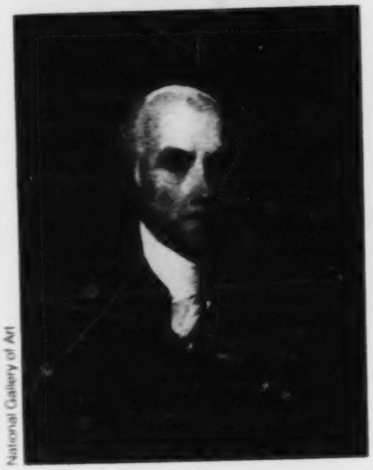
Department of the Army

For more than 200 years, scholars and politicians have debated who has the constitutional authority to commit U.S. armed forces to combat. Article I of the Constitution gives Congress "the power to declare war" and "raise and support armies." But according to Article II, "the President shall be Commander in Chief of the Army and Navy."

by simply refusing to allocate the funds necessary to wage war, could prevent the president from making a hasty, ill-planned decision to go to war. But James Madison, the primary architect of the Constitution, persuaded his colleagues to change Congress's role from making war to declaring war, thereby reserving some flexibility for the president to respond to a sudden attack.

A strict interpretation of the Constitution's language suggests that the framers intended for Congress to decide when and if to go to war and for the president to direct the armed forces once war was declared. But questions remain. For example, what constitutes "war"? Does it include every instance in which U.S. armed forces are engaged in hostilities, no matter how briefly? Is declaring war the same as making war? What specific authority did the framers intend for the commander-in-chief to have?

Because these questions are not specifically answered in the Constitution, they have incited a debate between "strict constructionists"—those who interpret the Constitution literally—and "loose constructionists"—those who interpret the Constitution broadly. A strict constructionist is likely to believe that Congress has the sole authority to declare or make war because that is precisely what is written. Loose constructionists, on the other hand, would argue that the president's role as commander-in-chief implies that he or she also has the authority to commit the United States to war.


National Gallery of Art

At the Constitutional Convention in 1787, the framers of the Constitution divided the authority to make war between the president and Congress. Congress was originally given the power to "make war," but James Madison persuaded the other delegates to change the language to "declare war." Madison said this would allow the president to respond to a sudden military attack.

Although the constitutional debate has been deadlocked for more than 200 years, presidents in the twentieth century have tilted war-making authority strongly in their favor. This direction is due mainly to the emergence of the United States as the leader of the Western world—a development, many would argue, the Framers could not have foreseen when they divided war-making authority between Congress and the president back in the 1780s.

THE WORLD WARS

The two world wars provided the executive branch with the opportunity to dramatically expand its powers. When the United States entered World War I, Congress gave President Woodrow Wilson sweeping powers to manage the war. President Wilson controlled not only the military but also the economy, whose efficiency was vital to the war effort. Congress believed that the president was best equipped to unify and direct the resources of the country during wartime.

After victory in World War I, Congress and the American people preferred to shift the country's focus back to solving domestic problems at home. Consequently, Congress passed a series of laws during the late 1930s that were designed to keep the United States out of the war that was then brewing in Europe. But as Nazi Germany's intention to conquer the entire continent became too dangerous to ignore, President Franklin Roosevelt—who favored direct U.S. participation in the war—managed to seize broad authority similar to that delegated to Woodrow Wilson twenty years earlier.

President Roosevelt carried executive control over the armed forces to unprecedented heights even before Congress declared war in December 1941. For example, the Lend-Lease Act of 1941 authorized the president to "sell, transfer, exchange, lease, or lend" any defense material to any country whose defense was vital to U.S. national security. Roosevelt stretched the provisions of the Lend-

Lease Act by sending U.S. troops to various locations in and around Europe and maneuvering American battleships into an undeclared naval war in the Atlantic. The United States soon found itself on the brink of war with Germany's Axis powers. Once war was formally declared, Roosevelt attempted to wrestle complete wartime legislative authority away from Congress. At one point he even threatened to suspend the Constitution in the interest of national security if Congress did not act "adequately" in delegating to him the wartime domestic powers he deemed necessary. With the American people behind the popular Roosevelt, Congress backed off and handed unprecedented authority over to the president.

In addition to having control over the armed forces, Roosevelt created dozens of agencies to direct U.S. resources during the war. Anything directly or indirectly related to the war effort was regulated by these agencies, which were accountable to the president, not Congress. President Roosevelt also claimed the authority to seize any defense industries that were in danger of being crippled by strikes.

THE COLD WAR

The presidential war-making powers that developed during World War I and World War II grew dramatically in 1946 with the beginning of the Cold War. The Cold War was an era of continuous tension between the United States and the Soviet Union. During this period, which lasted well into the 1980s, the president frequently ignored Congress's constitutionally mandated role in foreign policy. International and domestic developments that helped to expand the president's war-making powers during the Cold War included:

- the renewal of American interventionism abroad;
- the Soviet Union's acquisition of nuclear weapons;
- the president's access to more detailed and reliable classified information; and
- the political fragmentation of Congress created by two competing parties.

The global political environment brought on by the Cold War required quick, forceful decisions that, on occasion, had to be made in secret. Proponents of strong executive authority argued that this responsibility was best left in the hands of one president and a select group of advisers, rather than 535 members of Congress. With the onset of the nuclear age, when the decision on whether to retaliate with nuclear weapons would have to be made within minutes, presidential consultation with Congress would be nearly impossible. The fact that the president is the only government official authorized to order a nuclear attack further diminished Congress's role in the event of a confrontation with the Soviet Union.

Congress Retreats. During the Cold War era, the formal declaration of war was replaced by a series of congressional resolutions authorizing the president to use military force against specific countries. Critics charged that these resolutions, even if they were widely supported by Congress, handed over too much power to the president. But these resolutions were few and far between. From 1946 to 1973, presidents ordered 150 military actions from the deployment of

U.S. Army

The nuclear arms race between the United States and the Soviet Union began in the late 1940s. The president is the only government official authorized to order a nuclear strike on another country—a decision that would have to be made within a few minutes. Active congressional participation during such an emergency would therefore be nonexistent.

National Archives

National Archives

President Franklin Roosevelt (left) and his successor, Harry Truman (right), expanded the war powers of the president. During World War II, Roosevelt seized from Congress virtually all legislative control over the economy he deemed vital to the war effort. In 1950, Truman sent U.S. armed forces to defend South Korea without first consulting with Congress.

troops abroad to surgical airstrikes on enemy lands—most with little or no prior authorization from the legislative branch. During this time span, Congress passed only five joint resolutions authorizing the president to use military force. Historian Arthur Schlesinger characterized this period as one during which "Congress receded not alone from the effort to control the war-making power but almost from the effort to participate in it."

KOREA

President Harry Truman set the stage for presidential dominance during the Cold War when, in 1950, he dispatched U.S. air, land, and naval forces to Asia to repel the Soviet-backed North Korean invasion of South Korea. President Truman ordered the operation under the banner of a United Nations (UN) resolution that condemned North Korea's invasion and authorized the actions of the United States. Truman and his secretary of state, Dean Acheson, concluded that a congressional declaration of war was therefore unnecessary and inappropriate. American combat troops were involved in an undeclared full-scale war in Korea that would result in 150,000 U.S. casualties. Congress continued to approve funds needed to carry out American participation, which the administration took as an endorsement of its policy in Korea.

VIETNAM

Even before the Korean War ended, the Truman administration was paying close attention to Vietnam, the country many believed would be the next target for communist takeover. Thus, Truman approved U.S. arms assistance to France—Vietnam's colonial ruler—after the communist resistance, called the Viet Minh, began fighting for independence. The first contingent of American military advisers was then sent to Vietnam, and $15 million in military aid was granted. By 1951, aid would top $500 million.

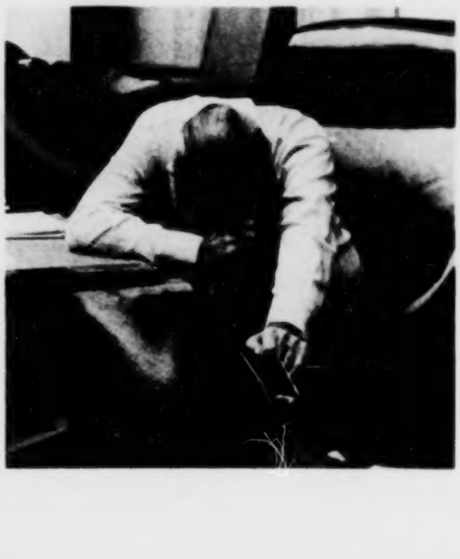
In 1954 Truman's successor, Dwight Eisenhower, considered the possibility of sending American troops to Vietnam, but Congress protested and the plan was scuttled. One year later, an international conference in Geneva resulted in a cease-fire between the French and the Viet Minh. The Geneva accords also stipulated that Vietnam be partitioned, with communists controlling the North, and anticommunists controlling the South. After South Vietnam was proclaimed a republic in late 1955, France withdrew from the region.

Viet Minh soldiers (now called the Viet Cong) who were trained and armed in the North returned to the South to wage guerrilla warfare against the government of Prime Minister Ngo Dinh Diem. To counter the threat of the Viet Cong, the American presence in Southeast Asia—then composed mainly of military advisers—slowly increased throughout the Eisenhower and Kennedy presidencies. However, under President Lyndon Johnson, U.S. military involvement in Vietnam took a dramatic turn.

On August 2, 1964, U.S. Navy destroyers were attacked by North Vietnamese aircraft in the Gulf of Tonkin, off the coast of Vietnam. President Johnson retaliated immediately by ordering naval planes to bomb North Vietnam. After this confrontation, President Johnson felt obligated to seek some form of congressional approval for further U.S. military action. He asked Congress to pass a resolution to "give convincing evidence to the aggressive communist nations that our policy in Southeast Asia will be carried forward, and that the peace and security of the area will be preserved."

Congress responded by passing the Tonkin Gulf Resolution, which gave the president the authority "to take all necessary steps" to protect the freedom of South Vietnam. The vote was 88 to 2 in the Senate and 416 to 0 in the House. This overwhelming support was interpreted by the White House as an informal declaration of war. For the remaining eight years of the conflict, neither President Johnson nor his successor, Richard Nixon, returned to Congress to request continued authorization to wage war in Southeast Asia, even though U.S. military activity in the region steadily escalated.

By the late 1960s, with no end to the fighting in sight and more than 40,000 American soldiers dead, many Americans began to oppose the Vietnam War. Although he was elected in part because of his pledge to end the war, President Nixon expanded the conflict by secretly ordering forces into neighboring Cambodia in 1970 to destroy North Vietnamese sanctuaries and training areas. After peace talks between the United States and the communists broke down, the president ordered the heaviest bombing yet of North Vietnam. With the American public outraged at Nixon's "secret war" in Cambodia and increased bombing in the North, the antiwar sentiment in Congress grew. After a decade of inaction, Congress repealed the Tonkin Gulf Resolution and cut off funds for further U.S. military activity in Southeast Asia. The United States returned to the bargaining table at the peace talks in early 1973 with little choice but to withdraw completely from the region. The Paris Peace Agreement was signed in January 1973, and by March all U.S. troops had pulled out of South Vietnam, ending nearly ten years of U.S. military presence.



Lyndon Baines Johnson Library

After Congress passed the Tonkin Gulf Resolution in 1964, President Lyndon Johnson escalated U.S. military involvement in Vietnam. As the war dragged on and the casualties mounted, Johnson's policy became more unpopular with the American people. With his presidency in disarray over Vietnam, Johnson stunned the nation in March 1968 when he announced that he would not seek another term in office.

THE WAR POWERS RESOLUTION OF 1973

After the Paris Peace Agreement was signed, Congress passed a law to curtail what it perceived to be abuses of executive war-making authority by Presidents Johnson and Nixon. This law was called the War Powers Resolution of 1973. The goal of the resolution was to expand Congress's role in any decision to commit American forces to combat. According to the resolution:

- The president can commit U.S. forces where hostilities are "imminent" only in accordance with a declaration of war, a specific authorization from Congress, or during a "national emergency."
- The president must "in every possible instance" consult with Congress prior to any commitment of military force.
- Any commitment must be terminated within sixty days unless Congress authorizes its continuation. An extension of thirty days would be given if the safety of American troops depended on it.

NIXON VS. CONGRESS

Supporters of the War Powers Resolution praised it as a blueprint for the legislative branch to reclaim its constitutional authority as an equal partner in making war. Senator Jacob Javits, a Republican from New York and coauthor of the Senate version of the bill, declared: "At least something will have been done about codifying the implementation of the most awesome power in the possession of sovereignty and giving broad representation of the people in Congress a voice in it." Senator Edmund Muskie, a Democrat from Maine, added: "The purpose of the War Powers Resolution is not to alter the Constitution . . . but to restore and fulfill the intent of the Constitution in matters of war and peace."

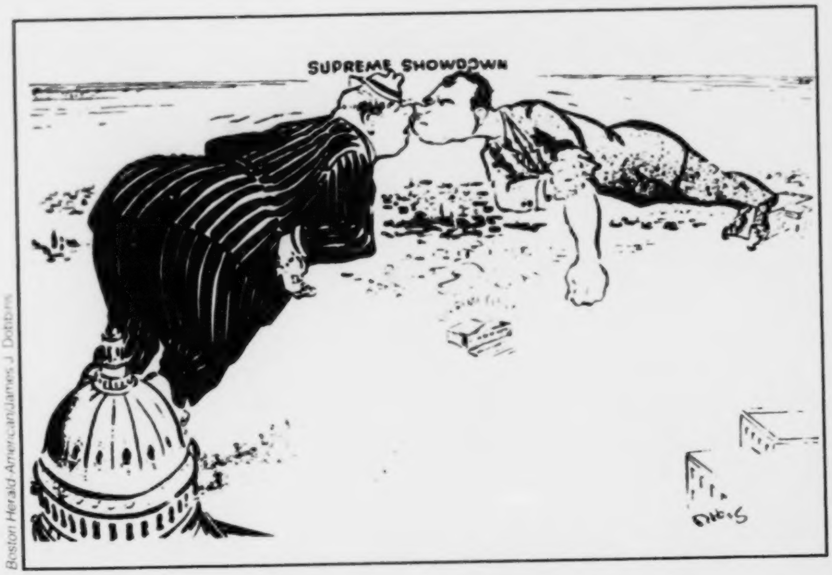
However, Arizona Republican Senator Barry Goldwater opposed the resolution strictly on constitutional grounds, stating that if Congress was determined to broaden its war-making authority, then a constitutional amendment was required, because "Congress does not have the power of making war." Others believed that the bill was unwise because it gave the president *too* much authority. Democratic Senator Thomas Eagleton of Missouri, referring to the resolution as "the most dangerous piece of legislation" he had seen in his Senate career, argued that it handed the president a "blank check" for ninety days before Congress could intervene. Eagleton called this provision unprecedented and unlimited executive authority. Despite this opposition and over the president's objection, the measure was passed easily in Congress—244 to 170 in the House, 75 to 20 in the Senate.

President Nixon vetoed the measure, contending that the War Powers Resolution would impose "unconstitutional and dangerous" restrictions on the president that would "seriously undermine the nation's ability to act decisively and convincingly in times of international crises." Nevertheless, resulting in part from Nixon's own political unpopularity over the growing Watergate scandal, supporters of the resolution easily rounded up the two-thirds majority in Congress required to overturn a presidential veto. The House overrode the veto, 284 to 135, and the Senate soon followed suit, 75 to 18.

Despite vehemently opposing the War Powers Resolution on constitutional grounds, Richard Nixon—like all presidents after him—did not challenge the law in the Supreme Court. Presidents have been reluctant to leave the fate of the war powers issue in the hands of the courts, not only because the judges may rule in favor of Congress, but also because a constitutional confrontation could greatly damage the relationship between the legislative and executive branches. Congress has on occasion challenged presidential power in lower courts, but with little success. And the Supreme Court has consistently refused to hear any appeals, believing it is up to the executive and legislative branches to settle what is fundamentally a political dispute.

PRESIDENTIAL POWER AFTER THE WAR POWERS RESOLUTION

In the twenty years since it was passed, the War Powers Resolution has not become the danger to



Boston Herald-American/James J. Dobbins

national security that President Nixon feared; nor has it been the key to reasserting congressional powers as its supporters had hoped. All presidents since 1973—Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, and George Bush—continually refused to acknowledge the constitutionality of the resolution. Instead, when they refused to comply with the law's provisions, they usually cited loopholes and historical "precedents."

The first American military operations after the enactment of the War Powers Resolution were minor, uncontroversial, and generally supported by Congress. In 1975, President Ford ordered combat forces to free American soldiers aboard a U.S. merchant ship that had been seized by Cambodian communists off the Gulf of Siam. Informing Congress only after the attack, President Ford defended his actions by stating, "When a crisis breaks out, it is impossible to draw the Congress in with the decisionmaking process in an effective way."

Presidents have also avoided consulting with Congress on actions that had been expected for some time. When the American embassy in Tehran was taken over by Iranian students in 1979, a U.S. rescue mission was viewed by many experts as a probability if negotiations failed. In early 1980, President Carter ordered combat forces into Iran to rescue the forty-nine American hostages. Eight American commandos died in a helicopter crash en route to their destination, and the operation was aborted. In justifying his decision not to consult with Congress, President Carter emphasized the mission's need for secrecy and its "humanitarian" nature. Most members of Congress agreed that these factors placed the operation out of the reach of the War Powers Resolution.

THE 1980S: CONGRESS TAKES A BACK SEAT

During the 1980s, the War Powers Resolution failed to check the president's power in a series of American military conflicts. One major factor that limited its effectiveness was that the resolution was designed and enacted in response to executive dominance during an unsuccessful, divisive, and lengthy war in Vietnam. By contrast, U.S. military combat efforts in the 1980s generally were quick and successful operations that were often completed before Congress could formulate a united response either favoring or opposing the president's actions. In addition, presidents during the 1980s commonly took their cases to the American people to gather support, and more often than not were successful in building a solid base of public approval. Fearing that going against the tide of public support could cost them votes in the next election, members of Congress were hesitant to strongly oppose the president. But this reluctance on the part of Congress was evident even when the War Powers Resolution was likely being violated. During the debate over the bill in 1973, Senator Eagleton warned that Congress as a whole will rarely have the political will to confront the president, because doing so could be perceived as unpatriotic.

Throughout the 1980s, in a series of U.S. military operations in the Middle East, the Caribbean, and Central America, presidents were able to circumvent the provisions of the resolution—but only if the policy was popular and successful. Only when something went wrong did Congress assert its authority.

Lebanon. The first major test of presidential power after the passage of the War Powers Act occurred in 1982. That year, President Ronald Reagan sent troops to Lebanon as part of a multinational peacekeeping force on two separate occasions. The first deployment came after Israel's invasion of Lebanon in June 1982. U.S. marines were stationed in Lebanon to oversee the evacuation of the Palestine Liberation Organization (PLO) from Beirut. President Reagan consulted with Congress about the plan twenty-four hours before deployment took place, but, like his predecessors, he refused to acknowledge the constitutionality of the War Powers Resolution. He made it clear in a report to Congress that he consulted with the legislators merely out of executive courtesy, not out of any obligation under the resolution. The PLO withdrawal was completed without incident, and the marines left Beirut on September 10.

Four days later, 1,200 marines were ordered back into Lebanon

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after the assassination of Lebanese President Bashir Gemayel. The mission of this peacekeeping force was to serve as a buffer between warring factions and to stabilize the region. After some debate, Congress decided not to invoke the War Powers Resolution, agreeing that combat appeared not to be "imminent." During August 1983, five marines were killed and many others injured from hostile fire. In September, American battleships began to retaliate by shelling targets in Lebanon. Reluctantly, President Reagan conceded that the sudden outbreak of hostilities made the war power provisions applicable and agreed to seek congressional authorization if the deployment was to continue.

Negotiations between the White House and Congress produced a compromise. Congress invoked the War Powers Resolution but allowed the president to keep the marines in Lebanon for an additional eighteen months. However, after 241 troops were killed by a suicide terrorist bombing of the U.S. marine barracks in Beirut, public support for an American presence in Lebanon diminished, and Reagan withdrew the troops in early 1984.

The war powers compromise between Ronald Reagan and Congress generally conceded power to the president. Nevertheless, the placement of marines in Lebanon marked the first and only occasion in which Congress forced the president to accept a time-limit provision on the deployment of American troops in accordance with the War Powers Resolution.

Grenada. In October 1983, shortly after the terrorist attack on U.S. barracks in Beirut, President Reagan ordered an invasion of Grenada, a tiny Caribbean island that recently had been taken over by a Marxist government. The president accused Grenada's new leadership of being anti-American and of allowing Cuba to build military airfields on its land. He insisted that U.S. actions came only after the Organization of Eastern Caribbean States formally requested

AUTHORIZING U.S. MILITARY FORCE

From 1945 to 1991, U.S. presidents have ordered more than 150 military operations. These ranged from troop commitments and bombing raids to rescue missions. However, during this time, Congress passed only six joint resolutions authorizing the president to use military force. With the exception of the Tonkin Gulf Resolution in 1964 and the Persian Gulf Resolution in 1991, none of the following resolutions initiated any U.S. military combat.

■ *Formosa Resolution (1955):* Determined to protect Taiwan from Communist China, President Dwight Eisenhower asked for congressional authorization to commit American forces to the defense of Taiwan. Congress passed a resolution authorizing Eisenhower to "employ the armed forces of the United States as he deems necessary."

■ *Middle East Resolution (1957):* To prevent the Middle East from becoming a target of the Soviet Union, Congress approved a resolution declaring the United States' intention to defend Middle East countries from any aggression from communist countries.

■ *Cuban Resolution (1962):* During the Cuban missile crisis, Congress passed a resolution authorizing President John Kennedy to take all necessary steps to contain Cuban aggression and oppose the Soviet Union's deployment of nuclear weapons in Cuba.

■ *Berlin Resolution (1962):* More of a congressional initiative than a presidential initiative, the Berlin Resolution affirmed the determination of the United States to prevent any Soviet aggression on U.S. allies in Western Europe and vowed to do whatever was necessary to honor that commitment.

■ *Tonkin Gulf Resolution (1964):* After U.S. naval forces were attacked by the North Vietnamese in the Gulf of Tonkin, Congress passed a resolution authorizing President Johnson to take all necessary steps to protect the lives of American troops and the freedom of South Vietnam.

■ *Persian Gulf Resolution (1991):* Two days before the United Nations deadline for Iraq to withdraw from Kuwait, Congress convened to decide whether to authorize the use of military force or to continue to rely on economic sanctions. By a close margin, Congress gave the president authority to oust Iraq militarily.

the United States to intervene. Further justification for the invasion was the rescue of more than 1,000 Americans living on the island who the White House believed were in danger of being taken hostage.

By November 2, the president declared that all military objectives had been met and the fighting ended. By December 12, all combat troops had left Grenada, leaving behind only a small number of support personnel to oversee the island's return to democracy.

President Reagan consulted with congressional leaders about his decision to intervene, but only after the invasion was under way. Although the president officially referred to the action as a "rescue mission," both houses of Congress voted to start the sixty-day clock of the War Powers Resolution immediately. Since the invasion succeeded in a matter of days and the well-being of those Americans in Grenada had been threatened, Congress, after initial misgivings about the invasion's legality under international law, declared its overall support for the president's actions.

However, there were dissenters. Democratic Representative Ted Weiss of New York introduced a resolution to impeach Ronald Reagan on grounds that he violated the Constitution in ordering the invasion without congressional authorization; no other member of Congress cosponsored his bill. Although many in Congress believed President Reagan ignored at least the spirit of the War Powers Resolution, they declared that the invasion was justified if only to protect the lives of American citizens.

Libya. On April 14, 1986, the United States carried out a series of air strikes against targets in and around Tripoli, Libya. The mission was a response to the alleged involvement of the Libyan government in a recent bombing of a Berlin nightclub that killed one American soldier and injured 200 others. President Reagan claimed that American intelligence had gathered unequivocal evidence pinpointing Libyan leader Muammar Qaddafi as the chief sponsor of the bombing.

The consensus in Congress was that Qaddafi was indeed responsible, and that the president had made substantial prior efforts to punish Libya through economic sanctions for previous terrorist activities. Although most members of Congress believed that the American strike on Libya was justified, many vigorously criticized the president for not adequately consulting with Congress "in every possible instance." Similar to the timing of his meeting with congressional leaders during the invasion of Grenada, Reagan notified lawmakers only after American warplanes were more than halfway to Libya.

Following the air strike on Libya, members of Congress began to debate changes to the War Powers Resolution that would include provisions on reacting to terrorists. Some members favored requiring the president to meet with representatives from both houses before ordering any retaliation against terrorists. Others preferred to exempt the president from any such obligation. However, after minimum debate, neither proposal was ever written into the resolution.

Panama. On December 20, 1989, President George Bush ordered 13,000 U.S. troops into Panama to oust that country's military dictator, General Manuel Noriega. The United States had previously indicted Noriega for international drug trafficking. For two years, the United States, in cooperation with the Organization of American States (OAS), had attempted to negotiate with Noriega directly to arrange his departure from power. But these efforts, despite being reinforced by economic sanctions, failed to rid Panama of its dictator. Earlier in 1989, free elections had been held in Panama to elect a president and legislature. Noriega's opponents were heavily favored to win. However, after declaring victory, opposition candidates were beaten up by soldiers loyal to Noriega, and the dictator quickly nullified the election. Following this episode, the Bush administration briefly considered the possibility of ejecting Noriega through a covert operation by the Central Intelligence Agency. Congress immediately informed the president that such a mission would be unacceptable.

Noriega soon escalated his anti-America rhetoric by ordering the Panamanian assembly to declare that a "state of war" existed with the United States, creating a potentially dangerous environment for the 30,000 Americans living in Panama. Shortly thereafter, President Bush launched a massive invasion to capture Noriega and bring him to trial on drug charges in the United States and to restore democracy in Panama.

Within two weeks, the U.S. invasion of Panama achieved all of its objectives. Noriega surrendered, and Panama's opposition leaders took their elected positions. The prevailing view on Capitol Hill was that the invasion was justified because the peaceful multilateral efforts of the president and the OAS had failed.

However, in his report to Congress, President Bush refused to place a time limit on the troop deployment pursuant to the War Powers Resolution, saying "it is not possible at this time to predict the scope and duration" of the U.S. invasion. Despite the president's refusal to concede to its provisions, there were never any serious discussions among members of Congress to invoke the resolution.

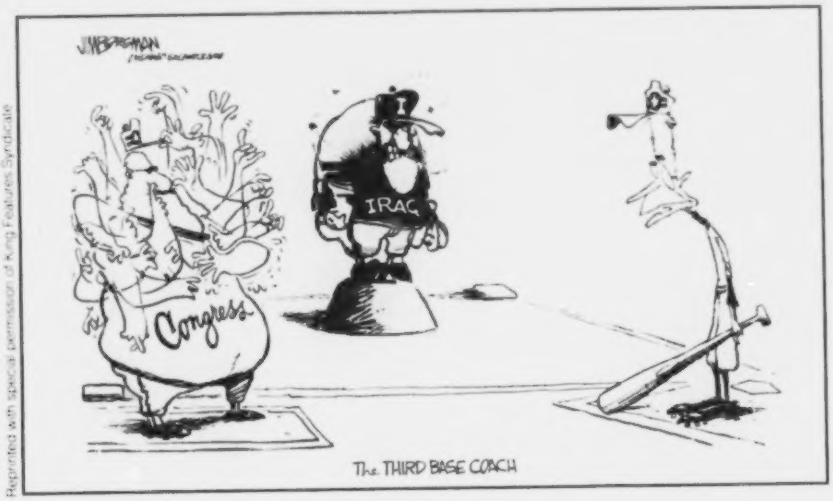
THE PERSIAN GULF WAR: WAR POWERS' BIG TEST

On August 2, 1990, President Saddam Hussein of Iraq ordered his army into the small, neighboring country of Kuwait. Meeting little resistance from Kuwait's armed forces, the Iraqi invasion was complete within hours. The international crisis that ensued provided a scenario seemingly tailor-made as a litmus test on modern presidential war-making authority and the effectiveness of the War Powers Resolution. After meeting with Congress, the president ordered the first divisions of American troops to the Persian Gulf and unilaterally committed the United States to the defense of Saudi Arabia. Suddenly, the United States was confronted with a potentially lengthy and costly armed conflict. A showdown over war powers appeared inevitable.

Saddam Hussein's aggression against Kuwait was also met with an immediate response from the international community. The United Nations (UN) quickly condemned the invasion. Soon, U.S. armed forces in the Persian Gulf were joined by troops from around the world, including neighboring Arab countries. The initial goal of the multinational force was to protect Saudi Arabia, whose leaders welcomed the presence of the United States and its allies. At this point in the crisis, the effort to force Iraq out of Kuwait was limited to multilateral—or multinational—economic sanctions endorsed by the UN.

President Bush notified Congress of the deployment of troops but sidestepped triggering the time limit of the War Powers Resolution. He insisted that, because the U.S. position was purely defensive, hostilities with Iraq were not "imminent." By September, U.S. armed forces in the Persian Gulf numbered more than 200,000. In October, the House voted 380 to 29 and the Senate 96 to 3 in support of the U.S. mission in Saudi Arabia. However, Congress made it clear that they were not authorizing any future use of American force.

It was not until President Bush ordered a doubling of U.S. troops to almost 500,000 in early November that debate over war powers intensified. The president explained that it was crucial for the United States to have an "adequate offensive option." Immediately, some members of Congress, believing that war had



Reprinted with special permission of King Features Syndicate suddenly become a realistic possibility, began to publicly criticize the change of direction in the U.S. objectives. Congress had little difficulty lending support to defend Saudi Arabia and strangle Iraq economically to force its withdrawal from Kuwait. However, the dramatic escalation of armed forces in the Persian Gulf reminded many members of Congress of the buildup in Vietnam twenty-five years earlier, and many citizens became uncomfortable. Senate Majority Leader George Mitchell publicly reiterated that Congress, not the president, has the authority to declare war. Secretary of Defense Richard Cheney countered by stating, "I do not believe that the president requires any additional authorization from the Congress. The president, as commander-in-chief, has the authority to commit United States forces."

By November, various economic embargoes were in place. The multinational force numbered close to half a million, and several attempts to arrive at a peaceful solution were failing. On November 29, the UN Security Council voted 12 to 2 to authorize "all means necessary" to remove Iraq from Kuwait if it did not withdraw by January 15, 1991. As the deadline approached, war with Iraq appeared inevitable. Yet Congress, the only branch of government constitutionally authorized to declare war, had yet to speak. With the UN deadline only ten days away, both houses of Congress convened to debate U.S. policy in the Persian Gulf. The specific matter before them was to decide between two resolutions—one calling for a delay of force and the continued reliance on economic sanctions, the other authorizing President Bush to use military force to oust Iraq from Kuwait. After a contentious two-day debate, the Senate and the House authorized the president to order the use of military force against Iraq on January 13. The House vote was 250 to 183; the Senate vote was 53 to 46.

One day after the UN deadline passed, the United States and its allies launched what would be the first stage of the military offensive against Iraq—a six-week bombing campaign on targets in Kuwait and Iraq. A four-day ground offensive followed in late February. By March 1, Kuwait was liberated, the Iraqi army defeated, and terms for a formal cease-fire signed.

ASSESSING CONGRESS'S GULF CRISIS ROLE

The outcome of the Persian Gulf War could not have been more different from that of the Vietnam War. The United States and its allies scored an overwhelming military victory while sustaining remarkably light casualties. The war was a political boon for President Bush, who enjoyed enormous popularity with the American people in the immediate aftermath. And, said one member of Congress, "the Constitution had prevailed" because Congress specifically authorized the war.

Although some agreed that this last point was technically true, they argued that Congress merely "rubber-stamped" President Bush's policy instead of providing the American people with a viable debate. Critics said that the congressional debate should have begun on August 7, the day after the United States' commitment to defend Saudi Arabia was announced. Furthermore, the sixty-day clock of the War Powers Resolution should have begun ticking, at the very latest, after the United States and its allies prepared for the military offensive into Kuwait in November. Because war appeared inevitable, many believe that President Bush would have ordered the attack on Iraq regardless of the position Congress took.

Faced with the largest American military buildup since Vietnam, Congress, during the first five months of the crisis, was unable to mobilize itself into taking a stand on the president's policy. Many attributed this failure to the fact that most members wanted to avoid taking a stand as long as possible, fearing it might backfire politically. During the early stages of the crisis, the outcome of a possible war with Iraq was anyone's guess. Fighting the Iraqi army on their turf could be a potential foreign policy disaster on the scale of the Vietnam War. On the other hand, a decisive victory for the United States and its allies was also a possibility. If Congress passed a resolution forbidding the president to initiate a war against Iraq, the president would have probably ignored it and launched an attack anyway. And, if the war turned out to be quick and successful, Con-

Reuters/Bettmann

The 1973 War Powers Resolution requires the president to consult with Congress prior to any commitment of U.S. military force and obtain specific authorization whenever hostilities are "imminent." During the first five months of the Persian Gulf crisis, President Bush did not seek authorization from Congress for the U.S. troop deployment in Saudi Arabia, but did consult with congressional leaders Thomas Foley (left) and George Mitchell (right) when major developments arose.

gress's already shaky reputation as a capable player in the foreign policy process would have been undermined even further. However, had the president's unauthorized war turned out to be a disaster, Congress would have looked good. By the same token, had Congress authorized President Bush to take any and all steps necessary to oust Iraq from Kuwait, members of Congress would not have been able to insulate themselves from the political fallout that would have ensued if the war had turned into a bloody fiasco.

President Bush did not want Congress to vote on authorization during the early stages of the crisis because he thought a rejection of his policy would send the wrong message to Saddam Hussein, who already believed that the United States lacked the resolve to go to war. As the inevitability of the war grew, Congress found itself backed into a corner. At such a late date, with the American people strongly behind the president, a nay vote from Congress would be politically impractical and unlikely to avert President Bush's commitment to oust Iraq from Kuwait militarily.

The political consequences of a negative vote must have weighed heavily in the minds of many members of Congress as they cast their vote in favor of the president. Because war appeared inevitable by January 13, many considered Congress's last-minute authorization practically irrelevant. In addition, because Congress authorized the use of force, some say a potentially catastrophic constitutional crisis had been avoided.

PRESIDENTIAL WAR POWERS IN THE FUTURE

The Persian Gulf crisis indicates that the president's war-making powers have yet to be diminished by the provisions of the War Powers Resolution. The White House continues to control the initiative over commiting American military forces to action overseas. Congress's inability to formulate a cohesive response until a few days before the war broke out demonstrates the fragmentation of the legislative branch. Advocates of a strong executive branch have for decades identified this problem as the primary reason why the institutional nature of Congress is ill equipped to play a leadership role during an international crisis.

Since the War Powers Resolution has failed to reestablish Congress as an equal partner in the war-making decision process, many now believe that the law needs to be amended. Democratic senators Sam Nunn of Georgia and Robert Byrd of West Virginia have proposed the formation of a permanent consultative group. This body of senators and representatives from both parties would consult regularly with the president prior to any future combat operation. This group would either specifically authorize the action or order its discontinuation. In turn, the proposal would abolish the provision that the president withdraw troops after sixty days if Congress does nothing. The Byrd-Nunn amendment would therefore ensure early congressional response and would not tie the president's hands with a time limit. Congress, however, has yet to vote on the amendment.

But others question whether any adjustment to the War Powers Resolution can make the law any more effective in reestablishing Congress's war-making authority. Events of the last twenty years suggest to some that Congress lacks the political will to invoke any legislation that holds the president accountable to the legislative branch. At the same time, many experts note that presidents have often overestimated their powers as commander-in-chief when commiting the country to large conflicts such as Korea, Vietnam, or the Persian Gulf.

Many people believe that the United States is the world's only true superpower. The dissolution of the Soviet Union and the emergence of democratic governments in eastern Europe and Central America officially brought the Cold War to a close in 1991. Nonetheless, many experts warn, this new global political environment does not mean that the American military role overseas will diminish. The Persian Gulf War, for example, had nothing to do with Cold War politics. Some foresee the United States assuming the role of "global policeman," jumping from region to region to stamp out international "brushfires" similiar to Iraq's invasion of Kuwait.

Accordingly, if U.S.-armed intervention abroad increases, the president and Congress will continue to grapple for control over war powers. Recent history shows that the president has the advantage in this contest, but, as presidents Johnson and Nixon learned, it only takes a failure like Vietnam to bring Congress back into the fray. And both the president and Congress realize that the power of public opinion is the ultimate check on their powers. The public seems willing to support any U.S. involvement in an armed conflict as long as it is quick, victorious, and results in few American casualties. Many experts have therefore concluded that no congressional resolution and no presidential military policy will endure without the support of the people.

CHAPTER 4

THE BUREAUCRACY

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THE BUREAUCRACY

The executive branch of government includes not only the president and the vice president, but also the fourteen cabinet departments and approximately 200 independent agencies, such as the Environmental Protection Agency (EPA) and the Central Intelligence Agency (CIA). The executive branch is by far the largest branch of government, employing about 3 million civilians as bureaucrats, or administrators, who carry out the policies of our government. Collectively, these people are known as the bureaucracy. The articles in this chapter describe the structure of the federal bureaucracy and the people who make it up.

Secretary Louis W. Sullivan, who heads the department of Health and Human Services (HHS), provides a firsthand look at the work of a federal agency. His department is the government's principal agency for promoting Americans' health and quality of life. It has the third-largest budget in the world, second only to those of Japan and the entire U.S. government. Secretary Sullivan outlines the major divisions of HHS and the programs they administer. He also reminds Americans that the choices they make are the most important factors in determining their health and well being.

John Palguta, a senior research analyst for the U.S. Merit Systems Protection Board, which protects the rights of government workers, argues that many of the negative stereotypes about bureaucrats are untrue. Further, cutting the size of the bureaucracy means cutting many federal programs that Americans support. Palguta also suggests ways to improve the efficiency of the federal bureaucracy by opening communications between managers and employees so that "whistle-blowing" becomes less necessary.

The civil service system is the federal government's merit system for employment, which ensures that employees are hired because of their qualifications instead of political favoritism. The civil service system is administered by the

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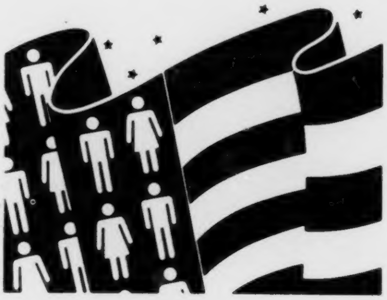
Office of Personnel Management (OPM). Constance Berry Newman, the former director of OPM, describes how the civil service began, who is part of the civil service today, and how to get a federal job. She profiles three faces behind the bureaucracy, who embody the term "public servant."

Although the bureaucracy is part of the executive branch, almost all executive agencies were established by Congress to implement legislation. Therefore, Congress plays an important role in overseeing the bureaucracy and determining how effectively it is administering federal law. Senator Albert Gore, Jr., maintains that congressional oversight helps keep the public informed and makes the executive branch more accountable. Senator Gore quotes philosopher Samuel Johnson, who said: "Nothing is so conducive to a good conscience as the suspicion that someone is watching."

Much of bureaucracy's work involves making and enforcing government regulations. James Carty, vice president of the National Association of Manufacturers (NAM), believes that the costs of government regulations can often outweigh the benefits. He argues that regulations controlling the economy, such as limits on the trucking industry, only raise prices for consumers. Conversely, Bruce Silverglade, legal affairs director for the Center for Science in the Public Interest, maintains that government regulations are a necessity for consumers, who are unable to make technical safety decisions for themselves. And, according to Silverglade, cost-benefit analyses of government regulations frequently undervalue human life.

This chapter's case study explores the role of federal regulation in the savings and loan crisis. Since 1877, Congress has created many federal regulatory agencies, including those that oversee financial institutions. The failure of more than 600 savings and loan associations from 1986 to 1991 forced the federal government to step in with new regulations and hundreds of billions of dollars to keep the thrift industry from collapsing completely.

For many people, the word "bureaucracy" means incompetence and red tape. A bureaucrat is often seen as a faceless, nameless person who always follows rules despite their impact on people's lives. However, most bureaucrats see themselves as dedicated public servants striving for the common good. Without them, government would not work.



Public Employees Roundtable

Department of Health and Human Services

Secretary Louis W. Sullivan

heads the Department of Health and Human Services. He formerly served as dean of the Morehouse School of Medicine.

A FEDERAL AGENCY AT WORK

The Department of Health and Human Services (HHS) is the U.S. government's principal agency for protecting the health and advancing the quality of life for the American people.

While HHS provides direct services or income support to more than one of every five Americans, most of whom are elderly or disadvantaged, the department affects the lives of *all* Americans. From the food you eat, to the medicines you take, to the cosmetics you use, to what you know is good or bad for your health, HHS plays an important role.

Unlike such agencies as the State and Treasury departments, which can trace their histories back to the birth of our federal government, HHS is relatively new. It was created in 1953 as the Department of Health, Education, and Welfare (HEW). In 1980, when the Department of Education was created, HEW was renamed the Department of Health and Human Services.

Today, HHS administers some 250 separate programs and employs some 118,000 people. At more than a half-trillion dollars, our budget is the largest of all U.S. government agencies and accounts for almost 40 percent of all U.S. federal government spending.

In fact, the HHS budget is the third-largest budget in the world, exceeded only by the budget of the entire U.S. government and that of Japan. So, in other words, we in the United States spend more on health and human services programs for our people than the governments of such major nations as Great Britain, France, Germany, and China spend on everything, including national defense.

The work of HHS is carried out principally by four operating divisions: the Social Security Administration (SSA), the Health Care Financing Administration (HCFA), the Public Health Service (PHS), and the Administration for Children and Families (ACF).

SOCIAL SECURITY ADMINISTRATION

The Social Security Administration runs the federal government's largest program, the Old Age and Survivors Insurance (OASI) program. This is the program most people think of when they hear the term "Social Security." OASI provides a monthly benefit (an average of $624 in 1992) for most retired American workers or their survivors.

I should emphasize that Social Security retirement benefits are intended as a *supplement* to your retirement income and not your entire income in your old age. To ensure a comfortable and financially secure retirement, it is wise to begin a retirement program when you are young, either through a company pension plan, or on your own through such plans as an Individual Retirement Account (IRA) with your bank.

The Social Security Administration also administers programs such as the Disability Insurance (DI) program, which pays monthly benefits to workers who have become disabled and can no longer work, and the Supplemental Security Income (SSI) program, which pays benefits to aged, blind, and disabled Americans with little or no other resources. Overall, the budget for the Social Security Administration represents more than half of HHS's entire budget.

HEALTH CARE FINANCING ADMINISTRATION

The Health Care Financing Administration manages the Medicare and Medicaid programs. Medicare, the federal government's second-largest program, provides low-cost health insurance for some 38 million people age 65 and older and certain people under age 65 who are disabled.

As with Social Security, Medicare is funded by virtue of money deducted from workers' paychecks and deposited into a trust fund. Medicaid, jointly funded by the federal and state governments, provides health insurance coverage to more than 30 million Americans unable to afford any other kind of insurance or health care.

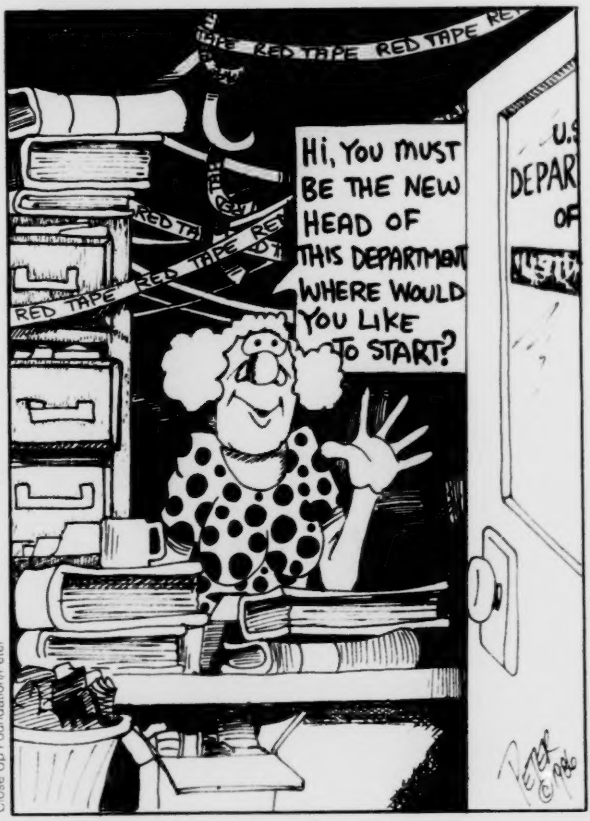
The Health Care Financing Administration is also responsible for ensuring the safety and quality of care provided by health facilities such as nursing homes.

PUBLIC HEALTH SERVICE

The Public Health Service is charged with the protection and advancement of the health of the American people. Its components include the Food and Drug Administration (FDA); the Centers for Disease Control (CDC); the National Institutes of Health (NIH); the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA); the Health Resources and Services Adminstration (HRSA); and the Indian Health Service (IHS).

The Food and Drug Administration regulates a wide array of foods, drugs, cosmetics, and medical devices that account for some twenty-five cents of every dollar spent by American consumers. FDA's activities include ensuring that new drugs are safe and effective, inspecting food processing plants so that the food you eat is pure, requiring that blood banks follow designated procedures to minimize the risk of infected blood, and reviewing labeling and advertising to prevent misleading information.

The Centers for Disease Control compose the leading agency respon-


RED TAPE RED TAPE RED TAPE
Hi, YOU MUST BE THE NEW HEAD OF THIS DEPARTMENT WHERE WOULD YOU LIKE TO START?
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Peter ©86

Close Up Foundation/Peter

sible for the prevention of disease in America. CDC monitors disease incidence throughout the nation and the world; works to prevent the spread of communicable diseases, such as AIDS, influenza, and measles; and leads the fight against other diseases, such as cancer and heart disease, as well as such health hazards as smoking and lead.

The National Institutes of Health are the world's largest medical research center. The Alcohol, Drug Abuse, and Mental Health Administration is the lead federal agency for directing the nation's war on alcohol and drug abuse through research, prevention, and treatment. The Health Resources and Services Administration supports programs and services that focus on disadvantaged and minority populations and their special problems, such as high infant mortality and lack of adequate health care services. And the Indian Health Service provides health services to Native Americans and Alaskans.

ADMINISTRATION FOR CHILDREN AND FAMILIES

The Administration for Children and Families is HHS's newest operating division. It was created in 1991 by combining the former Office of Human Development Services and the Family Support Administration into a single federal agency to serve America's children and families.

The ACF provides income support, employment training, and child development and other support services for children and families in need. Its largest program is Aid to Families with Dependent Children (AFDC), known to most Americans as "welfare," which provides cash payments to families who have little or no other source of income. Another ACF program is the popular Head Start preschool program for low-income children.

MAKING CHOICES

You now have a general understanding of what HHS is and what it does. But I have yet to mention the single most important factor in determining whether you will enjoy a healthy and productive life. It is *you!* It is the choices you make that will decide your future and shape your life. Unfortunately, many of our programs are necessary because people have made, and continue to make, the wrong choices.

The right choices include eating a healthy diet, getting regular exercise, resolving disagreements without resorting to violence, wearing seat belts, and staying in school. The wrong choices include using illegal drugs, abusing alcohol, teenage pregnancy, smoking, and failing to take responsibility for your personal behavior. I trust that, throughout your life, you will strive to make the right choices.

INCREASING THE RESPONSIVENESS OF THE FEDERAL BUREAUCRACY

Close Up Foundation/Ashley Pound

John M. Palguta

is Deputy Director, Policy and Evaluation, for the U.S. Merit Systems Protection Board (MSPB), a federal agency that protects the rights of government workers and conducts studies of the federal civil service for the president and Congress.

A study conducted by the University of Michigan asked a cross-section of American citizens to rate government bureaucrats and the services they provide. Many of the people questioned said they had problems the government could or should be able to solve, but that they were never able to find the agency that could help them, or had no idea if such an agency existed.

The study asked the same people what they thought of bureaucrats they had met personally. In this case, the results were almost the exact opposite of what might have been expected. Individual government employees were generally seen as helpful and responsive. Having dealt with an individual bureaucrat, two-thirds of the people questioned said they were completely satisfied with the way their problems were handled. Why the difference?

The authors of the university study concluded that "Americans have tackled the great bureaucratic beast and found it not such a dragon after all. But stereotypes live long and die hard, and the image of the insolent bureaucrat and his inefficient organization survives in spite of people's experiences, not because of them."

THE IMAGE OF THE FEDERAL BUREAUCRAT

For the most part, the general public does not have a positive image of federal bureaucrats or the federal bureaucracy. Some critics maintain that the bureaucracy is simply too large and that this damages its image. In some parts of the bureaucracy, of course, this may be true. However, bureaucracies, by nature, are characterized by job specialization and formal rules. Government (and large private corporations, for that matter) has not yet found a better way to organize.

One individual cannot become an expert in all the different activities carried out by most agencies. For example, imagine the problems that would arise if each of the several thousand Social Security claims examiners or Internal Revenue Service tax examiners applied individual judgment—without rules or guidelines—to determine how large a benefit one person receives or how much tax an individual pays.

Another problem for bureaucrats stems from the fact that a number of politicians have campaigned, in part, by complaining about the weaknesses and inefficiencies of the federal bureaucracy and by promising to do something about it. In most

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cases, the rhetoric has been directed at specific programs that the politician disliked rather than at the employees hired to administer those programs. This distinction has seldom been made clear, however, and the employees have often been portrayed as ineffective or wasteful.

Finally, in any institution as large as the federal government, there are bound to be some inefficient or ineffective programs and employees. However, even most critics would agree that these are greatly outnumbered by the good programs and employees. Unfortunately, upon hearing of any problems within the government, many people assume the worst about government as a whole.

THE REALITY OF THE BUREAUCRACY

Is the size of government a problem? If so, then an easy solution would be to make it smaller. A smaller government would have to be more efficient and responsive. Or would it? While government as a whole has grown substantially over the past thirty years, most of the growth has come at the state and local level. At the federal level, the size of the bureaucracy, as measured by the number of civilian employees, has not increased very much over the past thirty years. And if measured as a proportion of the total U.S. population, it has actually gotten smaller (see chart).

In 1960, there were an average of 13.1 civilian federal employees for every 1,000 U.S. residents. Thirty years later—in 1990—there were only 12.2 employees for every 1,000 U.S. residents. While the number of state and local government employees in the United States increased more than two and one-half times during this time period, the size of the federal bureaucracy remained remarkably stable.

Calls to reduce the size of the federal government raise another issue—reaching agreement on what precisely is to be cut. In 1990, almost half (47 percent) of all executive branch civilian employees (not counting the almost 800,000 employees of the U.S. Postal Service) worked for the Department of Defense. Also, in 1990 approximately one-fourth of the federal budget was for defense spending, 43 percent was for direct payments of benefits to individuals (e.g., Social Security and Medicare), 14 percent was for interest on the national debt, and 12 percent was for grants to states and localities. Only six cents of every budget dollar funded all other government operations.

While disagreement exists over how much to spend, there is no disagreement that government programs serve a need, whether in defense, health, or agricultural research. For example, the Department of Health and Human Services administers, among other activities, Social Security, the Food and Drug Administration, the Centers for Disease Control, and the National Institutes of Health. The Department of Agriculture administers the food stamp program, conducts meat and poultry inspections, maintains the Agricultural Research and Soil Conservation Services, and performs a myriad of

HOW BIG IS THE BUREAUCRACY?

Fiscal Year	Civilian Employees in the Executive Branch*	Total U.S. Population	Employees for every 1,000
1960	2,371,000	180,671,000	**13.1**
1965	2,496,000	194,303,000	**12.8**
1970	2,944,000	205,052,000	**14.4**
1975	2,848,000	215,973,000	**13.2**
1980	2,821,000	228,468,000	**12.3**
1985	2,964,000	239,134,000	**12.4**
1990	3,067,000	250,726,000	**12.2**

*Includes employees of the U.S. Postal Service

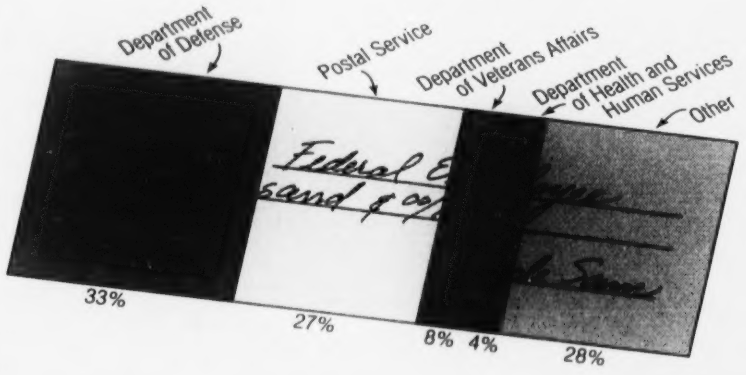
Source: Office of Management and Budget

other functions. The list goes on and on.

While some agencies do outlive their usefulness and some programs are cut (and more perhaps should be cut), by and large the big budget items and larger agencies are there because Americans either want or need the services provided. Entitlement programs (so called because everyone who qualifies is entitled to receive benefits) account for close to half of the federal budget. These programs include Social Security, Medicare, and Medicaid. Reaching agreement on which programs are no longer necessary or are too generous is understandably a difficult task because someone usually stands to lose.

LARGEST EMPLOYERS IN THE FEDERAL GOVERNMENT

Percent of Total Civilian Federal Employment



Source Office of Personnel Management

A common mistake made by many people is to assume that all federal government agencies and employees are basically the same. Of course, federal agencies vary widely in size, ranging from those with fewer than a dozen employees to the Department of Army with more than 350,000 civilian employees. (The U.S. Postal Service has the largest number of civilian employees, with close to 800,000, but it is also an independent part of the federal government with separate personnel policies and procedures.)

In addition to size, each federal agency has a unique mission and a unique work force to carry out that mission. For example, the National Aeronautics and Space Administration (NASA) has a high concentration of engineers and scientists among its employees, while the Forest Service in the Department of Agriculture relies heavily on foresters and rangers, who work in an environment totally different from NASA.

In sum, the bureaucracy is best understood when it is seen in terms of its component parts.

THE BUREAUCRAT'S ROLE IN IMPROVING THE BUREAUCRACY

There is always room for improvement in the operation of most agencies, and individual bureaucrats can become key players in those efforts. In 1980, the U.S. Merit Systems Protection Board (MSPB) sent a questionnaire to 13,000 randomly selected employees in 15 major federal departments and agencies. In 1983, a related questionnaire was sent to approximately 7,500 randomly selected employees government-wide. The results from both surveys provide some interesting insights into the motivations of federal bureaucrats who "blow the whistle" on fraud, waste, or mismanagement.

In both surveys, a significant percentage (45 percent in 1980 and 25 percent in 1983) admitted that they had direct knowledge of some type of illegal or wasteful activity. When we asked those employees who had observed the wrongdoing if they reported it, 70 percent of them said they did *not* report it. Among those who did report it and were identified as the source of the report, about one in five claimed they suffered some type of reprisal from management as a result.

These findings are disturbing because federal employees may be in the best position to help make improvements in government. When

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we asked employees in both surveys why they did not report an observed violation of the law, more than half (53 percent) gave as a primary reason their belief that nothing would be done about the activity even if they were to report it.

What we conclude from these and other studies is that federal workers want to do a good job and want to improve the effectiveness and responsiveness of their agencies. Given the opportunity, most will do so. The 1983 survey found that most federal senior executives (85 percent) stayed in government because they enjoyed their work, and more than three-fourths (76 percent) wanted the opportunity to make an impact on public affairs.

Our studies also show that whistle-blowing is usually not the most effective means of improving the bureaucracy. One exception may be when whistle-blowing calls attention to deliberate violations of law, such as major theft or fraud. In most cases, however, federal employees blow the whistle on less clear-cut issues such as poor management practices or a difference of opinion on agency policies. When such issues become public, agency managers may feel a need to defend their record and become even more resistant to change—even constructive change.

I believe that federal managers can take steps within their agencies to move the bureaucratic climate toward one of open communication and cooperation between managers and employees so that blowing the whistle becomes less necessary. Some of the steps that can be taken include: (1) actively and sincerely soliciting the views of employees; (2) providing prompt feedback to employees on their ideas or opinions; and (3) recognizing employees who become involved in improving agency effectiveness and responsiveness. In the long run, all of us gain from these efforts.

Office of Personnel Management

Constance Berry Newman

is former director of the Office of Personnel Management (OPM), which administers the federal government's merit system for employment, known as the civil service system.

HOW DOES THE CIVIL SERVICE SYSTEM WORK?

This country would not work if its government did not work. The government would not work if the U.S. civil service system did not exist. It is important to understand how the civil service system developed, who is part of the civil service system today, and how to become a civil servant yourself.

HOW THE CIVIL SERVICE DEVELOPED

Some say that the federal government's public service system began with the establishment of the Pendleton Act in 1883. In reality, the public service system dates back to the origins of the nation in 1789, when the system was simply one that based appointments on merit. The U.S. Constitution provided that the president nominate higher officials by and with the "advice and consent" of the U.S. Senate. The Constitution allowed Congress to decide who should appoint "inferior officers." But for more than eighty years, Congress did not exercise this power, leaving the decisions up to the presidents in power.

President George Washington appointed a central government from his many trusted supporters. That practice was continued through the first six presidencies. Political parties had not yet become very powerful. Then, in 1829, came Andrew Jackson and the slogan, "to the victor belong the spoils." For him and many presidents after him, federal jobs were a tool of political patronage, and presidents became "job brokers."

But with President Abraham Lincoln in the White House, the movement against the spoils system mounted. Later, President Ulysses Grant was elected on a platform that included reform of the civil service system. Grant formed a small commission to establish merit rules for the civil service.

The spoils system hit its peak when, in 1881, a disgruntled job seeker assassinated President James Garfield. The public outcry led to increased pressure to reform the civil service system. In the mid-term election of 1882, reform became a pivotal issue. What resulted was a reform bill introduced by Senator George H. Pendleton of Ohio. The act provided a blueprint for the civil service system.

As the twentieth century began, added responsibilities increased the size of the federal government. President Theodore Roosevelt, a former civil service commissioner, took major steps to ensure a quality civil service.

During World War I and World War II, recruiting by the federal government increased dramatically. While the depression caused some furloughs or dismissals, the government quickly snapped back after Franklin D. Roosevelt was elected president. Many new programs and agencies required a larger workforce, and President Roosevelt wanted to assure the public that high-quality services would be provided.

As the nation entered World War II, a new test was put to the merit system. Could the system survive a time of emergency, when millions of applicants for federal jobs had to be processed? In the end, the merit system survived well, responding to a strong demand for fast and efficient screening of job applicants. Between 1939 and 1945, federal civilian employment grew to 3,800,000 people. More and more women and minorities were brought into government at higher levels.

By the 1970s, the federal government had grown to the extent that its size, functions, and cost led to questions about its ability to function

THE FACES BEHIND THE BUREAUCRACY

Government affects almost every aspect of Americans' lives. Here are some of the people who embody the term "public servant."

Office of Personnel Management

Griffin Rodgers is an African-American doctor at the National Institutes of Health in Bethesda, Maryland. He and a team of colleagues have discovered a new method for treating sickle cell disease, which kills many young black children each year. "This is a first," he said, because his method treats "the specific disease, as opposed to the complications of the disease."

Marvin Eleando is a Tohono O'Odham Indian and a customs patrol agent on the Arizona-Mexico border. He was once in-jured when a drug runner rammed his government car. "I feel good about the job," he said. "I feel like I'm doing quite a bit to stop drugs and other contraband from coming across. There are only twelve of us in this office, but we're doing our best."

Office of Personnel Management

Irma Saldana Rowan supervises inmates at the federal detention center in Los Angeles. She also volunteers time to talk with teenagers about her job, encouraging them to continue their education and to consider government careers. "You never know when your own child might get into trouble," she said. "If you can get through to at least one child and have that student finish school, there's a very good chance you won't see him locked up in here one day."

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with excellence. In 1978, the Civil Service Reform Act offered tools to improve the federal government's efficiency and provide incentives for top performance.

In the 1980s, the emphasis was on a smaller, leaner federal workforce with the aim of increased productivity and a more cost-effective, high-quality service to the public. In 1989, the Volcker Commission, an independent group promoting government efficiency, called for a renewed commitment to the highest traditions of public service. During the 1990s, under President George Bush, the civil service system is undergoing major reforms to prepare for the next century

WHO IS THE CIVIL SERVICE?

The federal government is the largest employer in the United States, with a civilian workforce of more than 2 million people (not including about 800,000 employees of the U.S. Postal Service). The work of the government is conducted by 100 independent agencies and fourteen cabinet departments, such as the departments of Health and Human Services, Agriculture, Defense, Justice, and the Treasury. The federal government employs people in some 900 occupations, ranging from architect to zoologist.

Most of the employees of the federal government work outside of Washington, D.C. Contrary to popular opinion, only 11 percent work in the Washington, D.C., area. The eight states with more than 100,000 federal civilian employees are California, Texas, Illinois, Florida, Virginia, Maryland, Pennsylvania, and New York.

More than 27 percent of the federal civilian workforce are minorities, and 43 percent are women. Nearly all of the women who work for the federal government are in white-collar occupations. Between 1988 and 1990, the number of women executives rose nearly 33 percent. Women now make up more than half of the technical workforce and one-third of all professional jobs. Women are increasing their representation, for example, as attorneys, engineers, air traffic controllers, and computer specialists.

Minorities have increased their representation at all levels. More than one-third of the government employees in the following professional and administrative occupations are minorities: social services, immigration inspection, education, personnel development, and language specialization.

The number of handicapped employees has also increased. Of all disabled employees, 78 percent hold white collar jobs.

Some of the people who have had a major impact on this nation have been federal civil servants. Among them are Nobel Prize winners, scientists, and other renowned Americans. For example, Dr. Jerome Karle, a chief scientist at the Naval Research Lab, and Dr. Herbert Hauptman received the Nobel Prize in chemistry in 1985 for their work in developing methods for determining crystal structures.

Other examples of civil servants are Clara Barton, a clerk in the U.S. Patent Office and founder of the American Red Cross; Alexander Graham Bell, a special agent of the Census Bureau and inventor of the telephone; Mary McLeod Bethune, Director of the National Youth Administration and a nationally known educator; and Rachel Carson, an aquatic biologist with the Fish and Wildlife Service and author of the watershed book on the environment, *Silent Spring*.

Those are names we all recognize. But millions of people working for the civil service system serve the public with excellence every day. Public servants protect the quality of our food, water, and air. Public servants undertake basic AIDS and cancer research. Public servants protect our borders and manage critical welfare and health care programs.

HOW TO BECOME A CIVIL SERVANT

Each person has the opportunity to serve in this nation's civil service system. Anyone interested in challenging and rewarding positions with the federal government should understand the following points.

1. The first step in seeking employment is to learn about available career options. The *Federal Career Directory* is an invaluable resource and is available in schools, libraries, federal job information centers, or state employment services listed in the telephone book in major cities.

2. About 80 percent of federal jobs are filled competitively. This means that job opportunities are made public and that applicants are evaluated through a process that could include a written examination.
3. To apply for a job, you should contact the Office of Personnel Management (OPM) or the federal agency of your choice to find out about the application process.
4. Career, application, and employment information is available for a nominal charge through a hotline service (1-900-990-9200).
5. To apply for any job with the federal government, you will have to submit the standard application form, Standard Form 171 (SF 171).

Career opportunities in public service are diverse, challenging, and rewarding. I hope that you will consider seriously a career with the federal government. There is no greater honor than to be a true public servant.

Office of Senator Gore

Senator Albert Gore, Jr.

(D-Tenn.), was elected to the Senate in 1984 after serving in the U.S. House of Representatives for eight years. While a member of the House, he served on several committees with oversight responsibility in the areas of health, environmental quality, and consumer issues.

THE ROLE OF CONGRESSIONAL OVERSIGHT

While Congress spends much of its time making laws, passing bills is only half the battle. Legislators also have a duty to oversee the executive branch. It is not enough to make laws; Congress must also make sure that they work.

Congressional oversight is vital to our system of checks and balances. When the nation's founders gave distinct powers to the three branches of government, they wisely designed each branch to keep an eye on the other two. The Constitution enumerates several of these checks and balances, from the presidential veto and the congressional override to the Senate approval of Supreme Court nominees.

Oversight is not spelled out in the Constitution, but courts have held that the power of oversight is inherent. The Constitution gives Congress the power "to provide for . . . the general welfare of the United States." In recent years, Congress has relied heavily on oversight to carry out that charge.

THE HISTORY OF CONGRESSIONAL OVERSIGHT

Since as early as 1792, Congress has asserted itself as a watchdog over the executive branch, uncovering scandals ranging from Civil War profiteering to the notorious Teapot Dome affair in 1923.* Modern congressional oversight came of age in 1950, when Senator Estes Kefauver, a Democrat from Tennessee, held televised hearings on organized crime. The Kefauver Committee was the first of many widely publicized congressional investigations into law enforcement, fraud, and abuse.

In the early 1970s, the Watergate scandal galvanized Congress into policing the executive branch more actively and sparked public interest in government ethics. A new generation of senators and representatives came into office eager to ask questions and challenge tradition. Congress passed strong conflict-of-interest laws and expanded its investigative powers through oversight subcommittees.

CONGRESSIONAL OVERSIGHT AT WORK

I have had an opportunity to participate in several important congressional probes. As a member of the House Subcommittee on Oversight and Investigations, I took part in a two-year probe into the Environmental Protection Agency's (EPA) enforcement of the Superfund program for toxic waste cleanup. We found

*Editor's Note: Teapot Dome was a federally owned oilfield, which was supposed to be used to provide emergency fuel for the U.S. Navy. When the Harding administration leased the fields to private developers who made a great profit, the scandal was uncovered by a congressional oversight committee.

UPI/Bettmann

Long lines of customers waiting outside banks and savings and loan associations were common but unsettling sights before and during the early years of the Great Depression. In this 1930 New York City scene, depositors wait their turn to withdraw their savings—or perhaps just a small fraction of their savings—from the failed Chelsea Bank and Trust Company. The creation of government insurance for bank and thrift deposits lessened the number of "bank runs"—so called because people rushed to their bank to get their money when they heard that it was in financial trouble.

Insurance Corporation (FSLIC). This insurance fund provided new stability to the thrift industry and ensured safety to small savers by offering government-guaranteed insurance for savings accounts of up to $5,000. Only a tiny fraction of savings accounts—2 percent—in thrifts exceeded $5,000. For the majority of depositors, all of their savings were insured.

Like the new FDIC, member savings and loans contributed to the insurance fund and were subject to examination by regulators. However, unlike the FDIC, the FSLIC did not gain many members. Most commercial banks joined the FDIC system right away, but only 8 percent of the nation's thrifts chose to take advantage of the government insurance plan in its first year. In fact, only 67 percent of the thrifts had joined the FSLIC by 1962, at which time 97 percent of commercial banks were insured by the FDIC.

The wide difference in participation between the two types of institutions could reflect the inherent stability of the conservatively run thrifts—or it could reflect the fact that many thrifts could not meet the stringent capital and reserve standards required by the FSLIC system.

Nevertheless, the appearance of consumer security and the booming post-World War II economy brought an explosion in savings and loan assets in the 1950s and 1960s. While the number of thrifts did not change (partly because of closings and mergers), the amount of money invested in these institutions skyrocketed from $8.7 billion in 1945 to $110.4 billion in 1965.

DEREGULATION BEGINS

After the birth of deposit insurance in the 1930s, the next major savings and loan regulation milestone came in 1980 with the Depository Institutions Deregulation and Monetary Control Act. In response to pressure from savings and loan association interest groups and a general trend toward government deregulation, this act of Congress eliminated the maximum interest rate ceilings that the nation's thrifts could pay on deposits.

In the past, all savings and loans were limited by law to pay no more than a fixed interest rate, set at one-quarter point above the limit commercial banks could pay. This limit was no problem when inflation was low and bank interest rates remained close to savings and loan interest rates, because the point spread between what thrifts paid on deposits and collected on loans kept the business afloat. But in the late 1970s and early 1980s, spiraling inflation led the Federal Reserve to raise interest rates across the board to discourage reckless borrowing and spending. The record-breaking high interest rates greatly exceeded what thrifts were collecting on their long-evidence not only of EPA's failure to carry out the law, but also of criminal mismanagement by EPA officials. The agency had deliberately manipulated the Superfund to delay cleanup and gave certain companies favorable treatment.

Our subcommittee also exposed price-fixing by an international uranium cartel, widespread overcharging by major oil companies, and illegal dumping of toxic waste by organized crime. Another investigation revealed that officials of the Federal Emergency Management Agency had diverted public funds for their own use.

Congress uses its oversight powers not only to uncover scandals in government, but also to reexamine laws it has passed. Often an oversight hearing will reveal the need for new or revised legislation. During committee hearings in 1983, for example, I became convinced that Congress should establish a computerized national network for organ donors. A year later, we passed the National Organ Transplant Act. Committee hearings on infant formula, bioethics, and health insurance for the elderly led to progressive legislation and regulation in these areas as well.

A thorough investigation—or the prospect of one—helps to keep federal agencies on their toes. Congressional committees have the power to subpoena witnesses, who can be held in contempt of Congress for lying under oath or refusing to testify. In 1974, the Supreme Court ruled in the case of the Richard Nixon tapes that the president could not invoke executive privilege to shield officials or evidence from congressional investigation or the courts.

THE LIMITS OF OVERSIGHT

Congressional oversight cannot solve all of the government's problems and does not always produce dramatic results. Keeping watch over the federal bureaucracy takes a great deal of effort, and a lengthy investigation can sometimes fail to produce anything substantial. Unless Congress catches the offenders redhanded, it may not be able to stop some offenses or questionable practices.

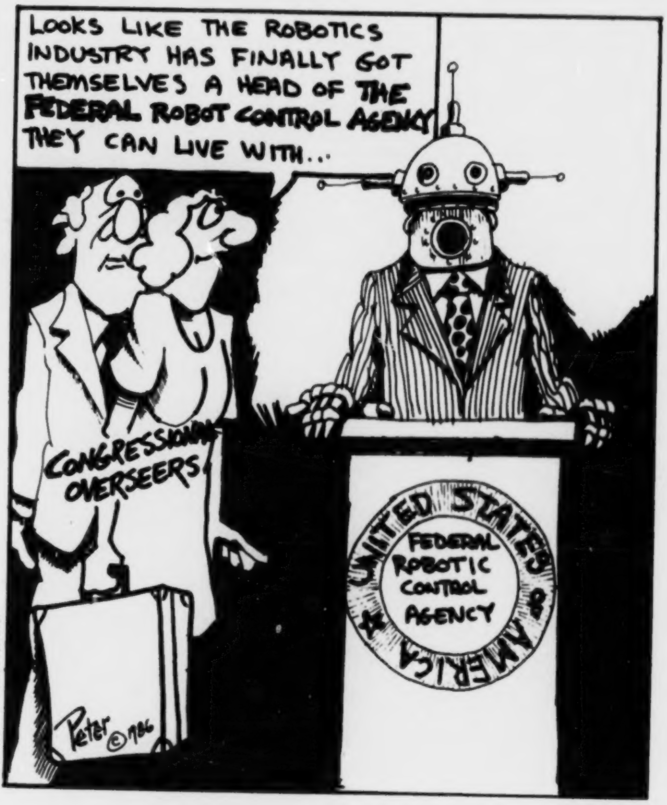
In addition, some members of Congress are more interested in legislation than oversight. A few

UPI/Bettmann

The Senate Watergate Committee, chaired by Sen. Sam Ervin (D-N.C.), center, investigated charges that President Richard Nixon had committed illegal acts.

may hesitate to launch investigations or hold hearings that could jeopardize industries or government workers in their home states or districts. In some cases, committee members have grown too close to agencies under their jurisdiction.

More often, Congress simply fails to ask the right questions. It is easier to pass laws and never look back than to admit that past statutes or programs may not be working. Until the explosion of the space shuttle Challenger in 1986, for example, Congress did little to oversee the space program. Even now, there are doubts about how well we are reviewing our responsibility in this area.


LOOKS LIKE THE ROBOTICS INDUSTRY HAS FINALLY GOT THEMSELVES A HEAD OF THE FEDERAL ROBOT CONTROL AGENCY THEY CAN LIVE WITH...
CONGRESSIONAL OVERSEERS
UNITED STATES OF AMERICA
FEDERAL ROBOTIC CONTROL AGENCY
Peter ©1986

Close Up Foundation/Peter

SOMEONE IS WATCHING

I believe that congressional oversight is getting better all the time. While a few areas of the government still escape notice, an active Congress has made the executive branch more accountable. As the philosopher Samuel Johnson once observed, "Nothing is so conducive to a good conscience as the suspicion that someone is watching."

Our democracy depends on the right to know. By watching over the executive branch, Congress helps to keep the public and itself informed. A strong and curious legislative branch will become still more important as the federal government strives to make the most of limited resources. Congressional oversight is one way to make democracy work.

GOVERNMENT REGULATION: TWO VIEWS

A BURDEN ON BUSINESS

National Association of Manufacturers

James Carty

is vice president for the Government Regulation, Competition, and Small Manufacturing Department of the National Association of Manufacturers, which deals with regulatory and legislative matters.

Government regulation is an integral part of our everyday lives. The clothes we wear, the food we eat, and the water we drink are all subject to some sort of government action. As an indication of how pervasive regulation is, the National Chamber Foundation (affiliated with the U.S. Chamber of Commerce) estimates that federal regulation costs American consumers about $400 billion annually, an average of more than $4,000 per household.

Government regulation of products is a legitimate function. Citizens should be assured that the medicine they take is safe and effective and that the airplanes they fly in and the trucks they share the road with are safe. However, many regulations are unnecessary or go far beyond what is needed. These regulations are an excessive burden

A NECESSITY FOR CONSUMERS

Center for Science in the Public Interest

Bruce Silverglade

is legal affairs director of the Center for Science in the Public Interest, a nonprofit consumer advocacy organization. He oversees the litigation of federal court cases involving a variety of consumer health issues.

It has been more than a decade since the business community's cries of "get government off our backs" have been sympathetically received by the White House. Those who echoed this cry told us that regulation was a waste of taxpayers' money, a burden on American industry, and even idiotic at times. Now that the deregulators have had their way for a while, it is fair to say that many Americans are thinking twice about whether regulation is as bad as we have been led to believe.

The difficulty of trying to get a telephone installed has made many people nostalgic for the old system. The recent epidemic of airline bankruptcies has caused second thoughts about airline deregulation. All in all, public opinion polls show that while most Americans are against regulation in the abstract, they now support specific consumer, health and safety, and environmental protection measures.

Surely, some aspects of deregulation have been a success. For example, the elimination of so-called "economic regulation" of long-distance telephone rates has produced lower prices that are a boon to consumers. More deregulation of this type is called for.

However, airplane safety illustrates the need for continued government regulation of a different sort.

CARTY CONTINUED . . .

on industry and drive up the prices we pay for goods and services.

Part of the problem lies with the fact that Congress often enacts legislation, but does not define how the new law is to be implemented. This job is left to government agencies. The problem with this is that agencies often have little knowledge of the impact their decisions will have on a business. Also, a regulation imposed by one agency may conflict with a regulation of another agency, leaving those affected in a quandary.

Take the example of children's sleepwear. In 1971, the government ordered the makers of children's sleepwear to put the flame-retardant Tris into all of their products. In 1977, however, the Consumer Products Safety Commission ordered the removal of all such garments from store shelves because Tris was shown to be a potential cause of cancer.

The most important aspect of regulation to most business owners, large and small, is the cost of compliance through paperwork. These costs, while hidden, are ultimately paid for by the consumer. However, some recent developments have reduced the amount of paperwork entailed in government regulation.

The first ray of hope was the enactment of the Paperwork Reduction Act of 1980, which granted the Office of Management and Budget (OMB) the power to oversee the issuance of rules and regulations by the various government agencies. OMB's mandate was to reduce the amount of paperwork involved in complying with federal regulations. In addition, the president directed government agencies to perform cost-benefit analyses of proposed regulations and to submit new regulations to OMB for review to ensure compliance with the Paperwork Reduction Act.

For example, in 1985, the General Services Administration, the National Aeronautics and Space Administration, and the Department of Defense attempted to issue regulations governing the Defense Procurement Reform Act of 1984 and the Small Business and Federal Procurement Competition Enhancement Act of 1984. These laws were intended

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Advocates of deregulation rely on the theory that informed citizens should be able to decide for themselves whether to pay an extra $5 or $10 to fly in a plane with some added safety feature. In practice, however, an individual consumer does not have the technical expertise needed to make that decision. That's why government regulation is actually the most efficient way of making these decisions for everyone.

Similarly, while deregulation of the telephone industry has produced lower prices, it has also produced a variety of substandard, low-quality products and long-distance services. Such situations ring out for increased regulation by consumer protection agencies because individual consumers cannot be expected to know whether one telephone company's communications satellite is as good as another's.

However, this simple fact often eludes the business community and Washington policymakers alike. For example, after airline fares were deregulated, both Congress and the White House failed to beef up the staff of the Federal Aviation Administration (FAA), which is in charge of ensuring airline safety. Although more people than ever took to the skies, the FAA was unable to increase the number and frequency of its inspections in order to keep up with the growing number of flights and carriers. Similarly, while the Federal Communications Commission placed its stamp of approval on telephone deregulation, it failed to issue adequate regulations that would protect consumers from being cheated in a newly competitive marketplace. The public will increasingly question the benefits of deregulation unless the business community and government officials recognize that deregulation in one area often calls for re-regulation in another.

Americans are also having second thoughts about deregulation because of the way deregulators use cost-benefit analysis to justify the rollback of health and safety regulations. While no one would quibble with the notion that government regulators should consider the costs and benefits of proposed regulatory

CARTY CONTINUED . . .

to prevent the federal government from paying more for an item than it would for the same item on the open market. Initially, the three agencies proposed a regulation that would require all companies doing business with the federal government to submit a "Certificate of Commercial Pricing." This certificate would have required suppliers to track every single price of every item that may some day be sold to the government. To the surprise of the agencies, few companies maintain such detailed records. And because the agencies wanted this information stored and filed for three years, implementation would have been a strain for computer storage capacity, physical files, or both.

The cost of tracking, analyzing, maintaining, and submitting such records would have been astronomical. OMB rejected the proposal because the costs far outweighed the benefits.

The recent deregulation of several industries shows how costly regulation can be. Deregulation demonstrates just how much more efficient and responsive industry becomes when it is allowed to respond to consumer demands rather than being run by a government agency charged with "protecting the public interest." Two good examples are the trucking and airline industries.

Prior to 1980, when the Motor Carrier Act of 1980 was passed, it was extremely difficult for new trucking companies to enter the market because they had to demonstrate conclusively to the Interstate Commerce Commission (ICC) that their services were needed for "the public convenience." Carriers were authorized to operate only between certain cities and were forced to return with their trailers empty. In addition, requests for rate increases were nearly always granted by the ICC while requests for rate reductions were contested strongly by competing companies and at least delayed if not denied.

After 1980, when the new law went into effect, 17,000 new carriers entered the market. Today, carriers and shippers negotiate truck routes and delivery times that are mutually beneficial. Shippers generally report

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actions, few people understand how such estimates are arrived at. Program administrators often place a dollar value on a human life (sometimes as low as $100,000) and then compare the figure to the cost of the regulation. According to the cost-benefit experts, a human life should be sacrificed if, for example, the cost of forcing factory owners to filter out cancer-causing chemicals from their smokestacks is more than the dollar value of the lives that will be saved by taking such steps.

The problem with this approach to regulation—apart from its callous attitude toward human life—is that it is unfair to weigh the cost of a regulation against its benefits. Even if the cost that factory owners must bear to reduce cancer-causing chemicals in the air is more than the dollar value of the lives saved from such action, factors such as fairness, equity, and justice may dictate that the factory owners should still be required to take steps to protect the public.

Consumers are not the only ones thinking twice about whether regulation may be worth it after all. Even the business community has come around to the position that some government regulation is good. For example, the National Association of Manufacturers itself led a fight *against* the elimination of affirmative action regulations for government contractors. Affirmative action regulations require that any company doing business with the federal government must employ appropriate numbers of minorities and women. In an attempt to "get the government off the back of industry," the Reagan administration proposed rescinding such requirements. However, far from creating any "burdens," such regulations help corporations maintain employee morale, increase worker productivity, and take advantage of a changing labor market that includes an increasing number of women and minorities.

Similarly, the Federal Trade Commission (FTC) proposed eliminating a requirement that all advertisers maintain records that prove that claims in television commercials and magazine ads are truthful. In other words, if an advertising company

CARTY CONTINUED . . .

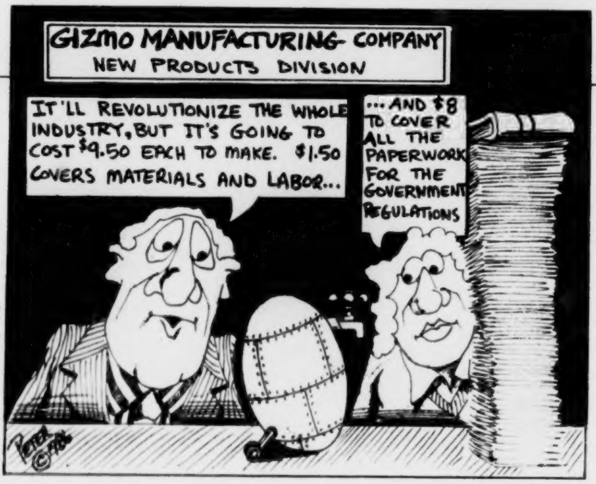
that truck charges are down, efficiency in operations is up, and the quality of service is at least as good as (if not better than) when the ICC exercised complete regulation. One estimate of the savings resulting from the Motor Carrier Act has been cited as $56 billion.

However, the trucking industry is not yet completely free of government regulation. Carriers still must file every rate with the ICC. Each year, more than 1 million rates are reported, and more than 3 trillion are on file.

No one who supported the removal of federal regulatory oversight of the motor carrier industry believes that safety standards, requirements, or inspections should be decreased. Protection of public safety is a legitimate function of government, along the same line as police and fire protection.

Another legitimate function of government regulation is to increase and preserve competition. Antitrust regulation, in particular, has served both the public and the business community well. All entrepreneurs should be able to rely on rules and laws to protect them from unfair competition. The key, of course, is that the rules have to be clear, unambiguous, and reasonable.

In August 1985, the Federal Communications Commission wrote what should become a maxim for other agencies: "Regulation was never intended to impede the development of competition. Rather, it is a surrogate for effective competition." These words strike at the heart of what government regulation should and should not be. It was not intended to interfere with the efficient operation of the economy, and it was not conceived to increase the costs of products to consumers simply to justify the existence of an agency. Instead, a good system of regulation protects the health and safety of citizens while guarding against the imposition of rules and requirements that would result in the inefficient and unproductive use of economic resources.


GIZMO MANUFACTURING COMPANY
NEW PRODUCTS DIVISION
IT'LL REVOLUTIONIZE THE WHOLE INDUSTRY, BUT IT'S GOING TO COST $9.50 EACH TO MAKE. $1.50 COVERS MATERIALS AND LABOR...
...AND $8 TO COVER ALL THE PAPERWORK FOR THE GOVERNMENT REGULATIONS
PETER ©86

Close Up Foundation/Peter

SILVERGLADE CONTINUED . . .

claimed that its skin cream worked better than a competitor's, it would have to have scientific data on hand if asked by government authorities to prove the claim. However, the FTC decided that the requirement placed undue burdens on advertisers and proposed to eliminate the measure to save the industry money. The advertising industry itself—not consumer organizations—persuaded the FTC to back down. Advertisers understand that without government requirements ensuring that advertising claims are true, unscrupulous claims would fill the airwaves and consumers would eventually come to disbelieve all ads.

In sum, important segments of the business community have come to realize that the hoopla about "getting government off our backs" may not be so great after all. While the business community as a whole still argues that regulations cause a significant burden on our economy, the fact is that economic problems such as declining innovation, trade imbalances, budget deficits, inflation, and unemployment have much deeper causes than federal regulation.

Consumer organizations hope that, in the future, the business community will work with government officials to address the root causes of our economic problems and not simply blame such ills on scapegoats such as consumer and environmental protection regulations.

The Bureaucracy

THE SAVINGS AND LOAN CRISIS: A NATIONAL NIGHTMARE

by Cindy Graff Hobson

This is the story of how the government bureaucracy influences the nation's economy through regulations, with a special focus on the savings and loan industry. As you read, try to answer these questions:

- *Why is the government involved with the nation's financial services industry?*
- *How has government regulation and deregulation affected the savings and loan industry?*
- *Should the government insure the savings accounts of individuals?*
- *Who or what is to blame for the savings and loan crisis?*
- *Why have taxpayers been called upon to rescue savings and loan associations?*
- *What lessons do savings and loan deregulation and reregulation offer for business in general?*

Department of Labor

In Texas, a thirty-two-year-old savings and loan association owner bought eighty-four Rolls Royces, spent $1.3 million on two years of Halloween and Christmas office parties, and maintained a fleet of seven airplanes. He lent the money in his institution's savings accounts to developers without adequately investigating their reputations or the profitability of their building plans. Those developers' office buildings remained vacant; they did not pay back their loans. The savings and loan company was declared insolvent only four years after he bought it. Guaranteeing the depositors' squandered funds will cost the federal government millions of dollars.

In California, an owner of a savings and loan company used depositors' money to build his $5 million home, hire prostitutes for business associates, dine in Europe's finest restaurants, and buy a half dozen planes, a ski chalet, a huge luxury yacht, and millions of dollars' worth of art for his office. More than 96 percent of his company's loans were delinquent by the time the government seized the business. The taxpayers' tab for reimbursing the savings that were spent will exceed $1.3 billion.

In Arizona, five of the top eight officers of a savings and loan institution were the son, daughter, and sons-in-law of the institution's owner; some of them were inexperienced people in their twenties who earned more than half a million dollars a year. The corporate jet had gold fixtures; the owner's offices and homes were extremely opulent. Luxury resorts, residences, and commercial buildings that the owner financed did not make a profit—the market was glutted with such projects. After this savings and loan went bankrupt, the federal government estimated that the taxpayers' cost to pay off the government-guaranteed savings accounts, manage and dispose of the foreclosed properties, and resolve the legal, financial, and administrative tangle would exceed $2.6 billion.

These savings and loan associations are just three of more than 600 that have failed and been taken over by the federal government since 1987. While owner mismanagement and financial excesses were key factors in these particular thrifts, the root causes of the savings and loan industry nightmare—and the reasons for the sudden speed at which it progressed—go much deeper. Like a real nightmare, the crisis is something not completely understood. No one knows the true impact of the crisis on taxpayers. In addition, it is likely to haunt Americans for a long time. In 1989, anticipated costs to bail out the savings and loan industry were estimated in the $30 to $50 billion range. By 1990, estimates were reaching $200 to $250 billion. And in 1991, projections jumped to $500 billion. This figure translates into more than $2,000 for every man, woman, and child in the United States.

ECONOMIC REGULATION: A CRITICAL GOVERNMENT POWER

Governments have regulated their nations' economic activity for centuries. In fact, the practice goes back to ancient Babylonia, where in 1800-1700 B.C., the code of King Hammurabi set workers' wages and other business and legal matters. Historically, government regulation has varied between passive watching and outright control, depending on the nature of the government and the mood of the times.

In the United States, economic regulatory power has been in force since 1789, when the new Constitution gave the federal government authority to regulate business:

> The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes . . .
>
> Article I, Section 8

In the early years of this nation, the government had little need to regulate commerce. Most citizens were farmers who usually traded within an area limited to a day's travel by horse and wagon. However, the advent of the railroad in the mid-nineteenth century dramatically changed this picture. The "Iron Horse" encouraged business between states and regions, and, coupled with an increasingly industrial way of life, brought new pressures upon the U.S. Congress to exercise its regulatory powers.

In 1877, Congress created the nation's first regulatory agency, the Interstate Commerce Commission (ICC), when it passed the Interstate Commerce Act. The act came in response to citizen outrage over railroad rates. Small businesses and farmers claimed that some railroad companies were granting special favors to large shippers, charging unfair rates to small shippers, and arranging among themselves certain rates and noncompetitive routes. One of the commission's first tasks was to investigate the railroad monopoly.

The ICC was the nation's first independent, expert, nonpartisan, and nonelected regulatory agency. It brought together the worlds of politics and business and became a model for all the regulatory agencies to come. They came fast and furious just a few decades later. To better distribute money around the country and monitor money needs, the Federal Reserve System was founded in 1913. The Federal Trade Commission came along in 1914 to advise and regulate industries engaged in interstate and foreign trade, followed by the Federal Farm Board. During the Great Depression of the 1930s, the National Labor Relations Board, the Securities and Exchange Commission, and the Federal Communications Commission were created—all part of President Franklin Roosevelt's New Deal programs.

A GROWING NETWORK OF GOVERNMENT OFFICES

Congress created these regulatory agencies in response to particular needs, pressures, crises, and technologies. According to a 1949 report, government regulatory agencies were developed "to correct or prevent abuses without impeding the effective operation of the industry or imposing unnecessary expense and waste." These organizations served as watchdogs over private enterprises.

Within each agency were hundreds and later thousands of government workers. Some people interpreted regulations, wrote policy, and kept Congress informed of agency activities. Others monitored industries, meeting with industry representatives and answering correspondence. A growing number of men and women were hired to maintain the mountains of files and papers generated within the agency. And, of course, more people were needed to manage and supervise the thousands of people engaged in the work of the agency. All these federal government workers—people who work in various government bureaus, agencies, and offices—came to be called "bureaucrats."

From the outside, the government bureaucracy sometimes looks like a complex, faceless web of regulation and red tape. It is important to remember,,however, that the bureaucracy is just people—more than 3 million of them. As in any business, some government workers are competent and industrious, and some are not. Some bureaucrats are talented and dedicated experts in their field: people who may know practically everything there is to know about their area of expertise, be it manufacturing standards for automobile brake linings or asparagus production. Some bureaucrats are powerful influences in society—and some are bored and disenchanted. There is no stereotypical federal government employee, just as there is no stereotypical restaurant worker or medical doctor.

REGULATION OF THE BANKING INDUSTRY

One of the bureaucracy's roles has been to regulate the savings and loan industry. The federal government has long been involved in the establishment and operation of the nation's financial institutions, and this involvement began with the national banks.

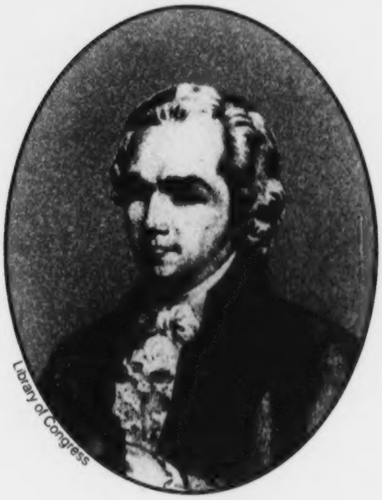
Not surprisingly, the nation's financial services industry has undergone extensive changes since the Revolutionary War—and the government has been responsible for virtually all of those changes. Government regulation of the banking industry even predates the Constitution. In 1782, the Continental Congress authorized a Philadelphia merchant to establish the nation's first bank, the Bank of North America.

Then in 1789, the newly ratified Constitution gave the federal government the authority to create money. The first secretary of the treasury, Alexander Hamilton, advocated having one national banking system, the Bank of the United States, to be in charge of distributing that money. Hamilton's system, like so many of the young nation's customs and practices, followed the British way of doing business.

However, Secretary of State Thomas Jefferson opposed Hamilton's banking system, saying that a national bank—financed primarily by private investors—would give rich people too much control over the nation's finances and be unfair to local and state banks. This view reflected Jefferson's general political philosophy. He believed that power resided in the states, rather than the federal government, and in the people—especially farmers, who constituted nearly 90 percent of the population in the nation's early years. Not only was Jefferson against a central national bank, he also opposed having large banks create branches, which would keep most of the power in the hands of the few, the owners of the banks.

Nevertheless, in 1791, Congress backed Hamilton's plan and created the Bank of the United States. The next eighteen years were to be the calmest period in the country's banking history. No banks failed and no competition existed. In 1811, during President James Madison's tenure, Congress did not renew the bank's national charter and it became a state chartered bank.

The second national Bank of the United States was founded in 1816, but it was not as powerful as the first. Its president, the wealthy



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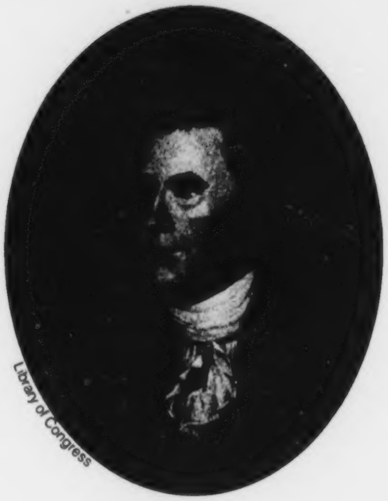


Library of Congress

Alexander Hamilton and Thomas Jefferson both served in President Washington's cabinet and both left an indelible mark on the young nation's financial history. Jefferson's disposition toward giving power to the people resulted in the United States' having more different banks and savings and loan associations today than all major nations put together.

Pennsylvanian Nicholas Biddle, knew how to keep it chartered—he made loans to members of Congress, newspaper editors, and other influential people. In one year, fifty-nine senators and representatives borrowed more than $300,000 from the bank. In fact, the bank's chief paid counsel was Senator Daniel Webster, who had borrowed thousands of dollars from the bank. All the politicians indebted to the Bank of the United States lobbied to keep it in business.

However, President Andrew Jackson—inaugurated in 1829—distrusted big-money operations in general and the Bank of the United States in particular. He was especially angry that the national bank did not support and provide funds for banks in his region of the country, the frontier West. Those western "wildcat banks" were often shaky fly-by-night operations that the Bank of the United States should not have funded, but Jackson viewed Biddle's actions as another eastern aristocracy plot. Jackson took money from the national bank and deposited it in his "pet banks," effectively closing the Bank of the United States in 1836. Once again, the United States became the world's only developed nation without a national bank.

In the early nineteenth century, state governments began chartering state banks and many small, independent banks appeared on the scene. Within a short time, many communities had their own banks, run by local citizens. Interestingly, the legacy of Jefferson's prejudice against a central banking system—fueled by Jackson's similar attitudes—forever changed the nature of banking in the United States. Today, even with 60 percent fewer banks than existed in the 1920s, the United States still has more than ten times as many banks as all the other industrialized countries combined.

In 1907, a major banking panic made the government reconsider the need for a national bank. In 1913, the Federal Reserve System was created to fill that need.

THE BIRTH OF THE SAVINGS AND LOAN ASSOCIATION

In the early 1800s, commercial banks offered savings accounts for both businesses and private citizens, but they generally lended money only to businesses. People who needed money for buying homes—usually the largest purchase in a person's life—had nowhere to borrow that kind of money.

But in 1831, a group of people trying to save money for their own homes banded together to create a new kind of financial institution. They founded the Oxford-Provident Association of Frankford, Pennsylvania, dedicated to lending large sums of money to individuals for just that purpose. Although the association dissolved in 1841, having achieved its mission of funding house building for all its members, the concept dramatically changed the way Americans bought their homes.

For Sale
MOUNT VERNON

Close Up Foundation/Renee Bouchard

Savings and loan associations were originally created to help individuals fulfill what's become known as the American dream—home ownership. The savings and loan lends money up front to individual homebuyers who repay the loan with interest over many years. If the borrower can't pay back the loan, the savings and loan repossesses the property.

HOW A SAVINGS AND LOAN ASSOCIATION WORKS

Savings and loan associations provide two services. They offer a safe place for individuals to deposit their savings, and they lend homebuyers the money they need up front to buy a home. Sometimes these associations are called "thrifts" because they encouraged people to be "thrifty" or to spend and save their money wisely.

Lending Money. Before issuing a loan, the thrift usually requires that the homebuyer pay a portion of the purchase price—a down payment—from his or her own savings. The savings and loan likes to see the homebuyer sharing in the risk of the purchase. The down payment also shows that the homebuyer is solvent and can be trusted to meet the payments on his or her debt to the savings and loan company. The savings and loan pays the seller the balance of the amount of money needed to buy the home. That balance, which is the amount of money the individual still owes the savings and loan, is called a mortgage.

Home loans are usually long-term commitments—fifteen, twenty, or thirty years. Often the total price of a home is two, three, or even four times the homebuyer's annual salary. Paying off that debt on top of other costs of living—such as food, clothing, and health care—takes most people a long time.

Savings and loan officials make money for the association by lending money to borrowers and charging a fee for that service. The person who borrows money from a savings and loan association does not pay back just the amount of the loan; the borrower also pays interest in the form of an added-on percentage to the amount lent. In fact, in the early years of paying off the loan, the major part of each monthly payment goes for interest rather than reducing the amount borrowed.

Technically, the savings and loan association—not the homebuyer—owns the home until the mortgage is repaid. If the homebuyer defaults on the loan (does not repay the loan as promised under his or her agreement), the savings and loan can foreclose on the mortgage and repossess the property. To recover the amount of money it invested in the property, the savings and loan can sell the property for the best price it can get, either through auction or private sale.

Because the savings and loan has risked the purchase price of the home up front, the officials of the institution want to be sure that the property is really worth the purchase price. If the loan is not repaid, the property is all the thrift has to show for its investment. If the value of that property was exaggerated to be more than it was really worth or if the value has fallen since the property was purchased, the savings and loan loses money when it sells the property. Conversely, the thrift could make money if the value of the property has increased since the mortgage was issued.

Attracting Money. Lending money is only half of the thrift's business. Charging interest on the loans is how the thrift makes money. That is the thrift's profit. But where does the savings and loan get the money to lend?

Part of this money comes from homebuyers' repayments of their loans. That money is then available for another homebuyer to borrow. The rest of the lendable money comes from people's savings. Individuals open savings accounts at the thrift in hopes that their money will be safer there than at home in a tin can or under the mattress. Mice can get into rusty cans and beds can burn.

In addition, savings and loans pay savers interest on their savings accounts. Because these financial institutions use savers' deposits to make money (by lending that money to borrowers and earning interest on those loans), the institutions pay savers interest for the use of their money. Interest on savings—a set percentage of the amount in a savings account—is added to the deposit annually, monthly, or daily. Because savers want their money to grow, the thrift's ability to pay interest is a prime attraction for putting their money in a savings institution.

This system of lending and making money is most profitable when a bank or thrift collects a higher percentage rate of interest from its borrowers than the interest rate it pays out to its savers. For example, a homebuyer pays the savings and loan 10 percent interest each month for her home loan, and the savings and loan pays the saver 5 percent interest for his savings account. The difference between those two interest rates—5 percent—earns the thrift money for its buildings, parking lots, advertising campaigns, and salaries for bank tellers, secretaries, loan processors, accountants, and executives.

MORE AND MORE SAVINGS AND LOANS ASSOCIATIONS

After the birth of that first savings and loan association in Pennsylvania in 1831, these new financial offices caught on rapidly across the country. New York City had a "building and mutual loan association" by 1836. The first southern savings and loan opened in South Carolina in 1843. Every state in the East had at least one savings institution by 1887, and more than 5,300 thrifts were open for business throughout the country by 1900.

By the mid-1920s, more than 12,000 thrifts were funding the American dream of home ownership. Still the numbers did not come close to the number of banks—more than 30,000 at that time.

Thrifts were often small, stable, and neighborhood oriented, whereas banks could be large, centralized institutions with perhaps a headquarters in the state's capital or largest city and smaller branches throughout the state or region. Like the savings and loan portrayed in the classic 1946 Jimmy Stewart movie "It's a Wonderful Life," thrifts were often family run and well trusted in the community. In the movie, George Bailey (Stewart) takes over his father's savings and loan company after his father's death. At one point, Bailey's savings and loan customers demand their money back in fear of losing it if the institution fails. However, the force of Bailey's personality and personal relationships with each customer saves the day as he parcels out small portions of the cash available at hand—his personal funds.

Unlike banks, savings and loan associations have not been controlled by government regulation throughout most of the country's history. Savings and loan associations were exempt from the national banking system of national charters established in 1863 and from the Federal Reserve System begun in 1913. They were even granted a tax exemption in 1894, a move that helped fuel the industry's rapid growth.

REGULATION COMES TO THE SAVINGS AND LOAN INDUSTRY

The stock market crash of October 1929 and resulting Great Depression changed many aspects of the financial

The Museum of Modern Art/Film Stills Archives

In the 1946 movie "It's a Wonderful Life," James Stewart (right) played George Bailey, a trusted owner of a small savings and loan company. Like Bailey Brothers Building and Loan in the movie, thrifts during the early twentieth century were stable, well-respected institutions that served small communities.

services industry, including the lack of government regulation of savings and loan associations. The depression began with mass financial panics and anxiety as shareholders watched the value of their stocks fall suddenly. Stocks lost a staggering $40 billion in paper values, more than the nation had spent in World War I.

The Great Depression continued with rising numbers of unemployed workers, lengthening bread lines, and widespread bank failures. Thousands of families lost their homes and savings in the collapse of banks. The depression also brought an unprecedented wave of government intervention in financial services. In 1932, Congress passed the Federal Home Loan Bank Act, creating new regulatory guidelines and a special agency for regulating savings and loan institutions, the Federal Home Loan Bank Board (FHLBB).

The overall mission of the FHLBB was to encourage saving and home ownership. The board was founded to both regulate and promote the savings and loan industry. Unfortunately, as time would tell, supervising and enforcing regulations on the one hand and boosting the size and growth of the industry on the other hand were often incompatible goals.

The establishment of the FHLBB introduced the first major government intervention in the savings and loan arena, but the new regulations were too minor to have any effect on the nation's overall financial crisis. When President Franklin Roosevelt took office on March 4, 1933, he inherited a country full of financial uncertainty.

BANK PANICS

Even as late as the beginning of this century, most banks kept very little cash on hand. Small banks kept their cash reserves in larger banks, which deposited the money in even larger banks. Bad crop years or poor business conditions sometimes led depositors to panic and line up outside their banks waiting to withdraw their money. People wanted the reassurance of holding their hard-earned cash in their hands.

Between 1930 and 1933, more than 9,000 banks and 500 thrifts closed their doors, taking with them more than $5 billion in citizens' savings account deposits. The majority of these failed when they were unable to pay depositors who demanded their savings back. These "bank runs"—large numbers of depositors rushing to withdraw funds—added to the depression-era tension.

President Roosevelt's first act in office was to declare a national banking holiday in March of 1933. All banks and savings and loans were closed for at least four days, and no depositor could withdraw funds. Each institution's books were examined, and only the solvent ones were reopened. Roosevelt's quick action was the most dramatic executive regulation ever taken in the country's banking history.

A NEW CONCEPT: DEPOSIT INSURANCE

Later in 1933, Congress created the Federal Deposit Insurance Corporation (FDIC), a bank insurance fund that protected individual savings accounts (in a bank that belonged to the FDIC system) up to $2,500, roughly twice the average annual household income in the early 1930s. This move protected bank customers and the commercial banking system as a whole, but did not protect an individual bank from insolvency. Member banks funded the insurance pool with contributions based on the size of their assets, paying a certain number of cents per year for each $100 of deposit. Participating banks were subject to rigorous examination by federal examiners who studied the banks' account books and practices.

President Roosevelt had misgivings about the FDIC guarantee. "We do not wish to make the United States government liable for the mistakes and errors of individual banks and put a premium on unsound banking in the future," he said. Nevertheless, he endorsed the concept to stabilize the country's financial system. Roosevelt knew the importance of a stable banking system to the country—something his eventual successor President George Bush would come to realize more than fifty years later.

SIMILAR (BUT NOT EQUAL) TREATMENT FOR THRIFTS

In 1933, Congress also passed the Home Owners' Loan Act, saving almost 1 million homes from foreclosure and giving the FHLBB the ability to charter federal savings and loan associations. In 1934, Congress created the Federal Savings and Loan term housing loans. Thus, savings and loan companies began to lose money.

NEW COMPETITION—AND NEW KINDS OF CUSTOMERS

The 1980s also saw the growth of a new financial services product, the money market fund. Money market funds, usually managed by large Wall Street firms or other private investment houses, lumped depositors' money together and invested it in whatever banks, thrifts, or other interest-bearing accounts were paying the highest rate at the time. The money market fund's flexibility, volume, and national scope resulted in slightly higher interest rates, enough to attract millions of customers' deposits even though the funds were uninsured.

Savings and loans, as well as banks, faced stiff competition from the new money market funds. While government regulations held down interest rates that banks and thrifts could offer, money market funds could pay whatever interest they could earn investing nationally.

In 1980, Congress deregulated interest rate ceilings for banks and thrifts. Taking away a maximum for interest rates brought a significant change in consumer attitudes about where they kept their money. Previously, banks and thrifts were limited to paying "the highest rate permitted by law," so they recruited customers based on their service or convenience—or they gave away gifts such as toasters and radios for new accounts. Now, comparison shopping for the best savings account rates in the country got money flowing out of some banks and into others. Banks and thrifts began to compete aggressively for savers' deposits.

The 1980 law also increased the federal guarantee on deposits from $40,000 to $100,000. Just seven years earlier, in 1973, the insurance fund had guaranteed the safety of deposits up to only $20,000—which was still much higher than the average individual's savings account. This new ceiling opened the door to competition for new kinds of customers.

Instead of looking for local individual depositors (who kept an average deposit of around $6,000 in the early 1980s), savings and loans competed to get "jumbo" deposits of $100,000. Aggressive marketing strategies raised interest rates higher and higher to attract big multimillion-dollar institutional depositors, such as corporations with large pension plan funds, major investment firms, and insurance companies. New ranks of salespeople received big commissions for collecting jumbo deposits.

Some savings and loan companies grew in gigantic leaps, but the growth was not always healthy. Richard Breeden, chairman of the Securities and Exchange Commission, in commenting on the combination of above-market interest rates and a government guarantee to back them up, noted, "The institutions that grew 2,000 or 3,000 percent

A SHORT HISTORY OF SAVINGS AND LOAN REGULATIONS

1782 First bank opened in the United States.

1789 U.S. Constitution signed.

1791 The first Bank of the United States founded.

1836 The second Bank of the United States closed by President Jackson.

1877 Congress creates the first federal regulatory agency, the Interstate Commerce Commission.

1913 Federal Reserve founded.

1929 Stock market crash and beginning of the Great Depression, an era marked by the failures of many banks and a smaller number of savings and loan associations.

1932 Congress creates Federal Home Loan Bank Board (FHLBB) to both promote and regulate the savings and loan industry.

1934 Congress establishes the Federal Savings and Loan Insurance Corporation (FSLIC) to guarantee the safety of savings accounts up to $5,000 in member thrifts.

1950 Congress raises the FSLIC deposit guarantee to $10,000.

1969 FSLIC insurance coverage ceiling again increased to $20,000.

1970 The FHLBB sets up the Federal Home Loan Mortgage Corporation (Freddie Mac) to create a secondary mortgage market.

1974 Congress raises the FSLIC deposit guarantee to $40,000.

1980 Congress deregulates interest rates thrifts can pay and raises FSLIC guarantee for insured deposits from $40,000 to $100,000.

1982 Congress passes Garn-St Germain Act, which further deregulates the thrift industry and permits thrifts to diversify.

1989 Congress passes the Financial Institutions Reform, Recovery, and Enforcement Act to reorganize the regulatory and insurance agencies monitoring the thrift industry. The act also creates the Resolution Trust Corporation to manage and dispose of the assets of failed thrifts.

weren't getting those funds because they were well-run businesses. Deposit insurance made those funds available."

FURTHER DEREGULATION

In 1982, President Ronald Reagan signed into law the Garn-St Germain Depository Institution Act—a landmark deregulatory legislation package named after the chairs of the Senate and House banking committees, Senator Jake Garn of Utah and Representative Fernand St Germain of Rhode Island. The act allowed savings and loans to make nonresidential real estate loans and consumer loans, letting them become much like full-service banks without the stringent capital and reserve requirements of commercial banks.

The huge influx of money to savings and loans—combined with the need to make more money on their investments to meet the savings interest rates—led many thrift officers to invest in areas outside their long-standing expertise in residential loans. Thrifts began investing in junk bonds (bonds so risky that they are not rated "investment grade" by financial analysts), shaky commercial loans, various venture capital projects, and hazardous real estate and development projects—all with government insured funds.

In addition, real estate developers who had trouble getting loans for new projects discovered a new solution for bypassing loan officers reluctant to approve and fund their projects. The developers simply bought their own savings and loans companies and wrote themselves the loans, using federally insured money to absorb any risks.

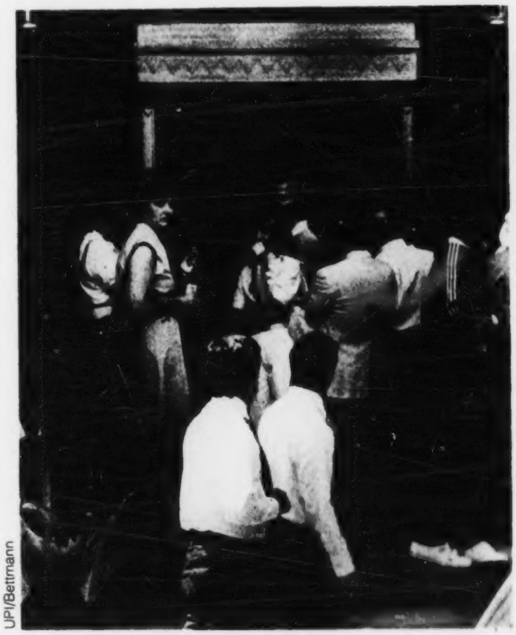
FAILING THRIFTS

Historically, most revenues earned by savings and loan associations came from long-term housing loans. In the 1980s, savings and loans generally had their portfolios locked into long-term home mortgages made at fixed interest rates as low as 6 and 7 percent. At the same time deregulation allowed them to pay 12, 13, and sometimes 14 percent interest on their deposits.

The point spread finally proved to be a fatal blow to many savings and loan associations. In 1980, the collective net worth of thrifts was $32.2 billion. By the end of 1982, it was $3.7 billion.

The Federal Home Loan Bank Board saw that many of its savings and loan associations were going broke. Many thrifts were losing money in their investments, were unable to pay the interest promised to savers, and were holding a growing number of delinquent loans. Their reserves—or surplus money—were running very low, too low to meet the standards required by the Federal Savings and Loan Insurance Corporation.

The FHLBB came up with a quick fix. The board lowered the reserve requirements of savings and loans from 5 percent to 3 percent. The reserve requirement is the ratio of an institution's net worth to its liabilities. In other words, this is how much the thrift has in savings compared to how much its borrowers owe. This lower accounting standard permitted borderline



UPI/Bettmann

Depositors wait anxiously outside the doors of a faltering Baltimore savings and loan association that had been closed temporarily by thrift examiners. When this savings and loan reopened under the control of a conservator, customers were limited to withdrawing only $1,000 per month.

savings and loans to stay in business. The change artificially reduced the number of immediate thrift failures, but let failing thrifts keep their doors open and continue losing money.

Meanwhile, adding to the problem, President Reagan's fiscal policies decreased the number of thrift examiners—government employees who inspect the procedures and records of savings and loan companies. Government supervision of savings and loans became more relaxed at the same time deregulation was allowing thrift officers to venture into new and unfamiliar lending and investment practices.

This combination of circumstances took a near-fatal toll on the savings and loan industry. Between 1980 and 1988, the number of thrifts plummeted from 5,076 to 3,639. In 1987, the industry showed a loss of $6 billion. By 1988, losses mounted to $11 billion, and by 1989, $20 billion. But the pricetag to guarantee and make good on savings deposits, along with straightening out all the administrative, legal, and real estate problems, would prove to be astronomically higher than the original losses.

COLLAPSE OF THE SAVINGS AND LOAN INDUSTRY

After just a few years of deregulation in the savings and loan arena, the Federal Savings and Loan Insurance Corporation was bankrupt. All its funds had been used to guarantee deposits in thrifts that had failed.

Economists have invested much time in investigating the causes of the savings and loan crisis. Some experts blame deregulation. Traditionally, savings and loans followed conservative lending strategies. For instance, during the Great Depression, nearly 40 percent of the commercial banks in the United States failed. The savings and loans, because of their closer ties to the local people and cautious lending practices, survived the depression with fewer than 5 percent failing.

Deregulation opened the door to new risks, throwing conservative investment strategies to the wind. President Reagan campaigned for deregulation, saying that government should stay out of business. He also worked toward reducing the number of people working in government. Following this policy, his secretary of the treasury and budget director repeatedly refused to give savings and loan examiners more funds or staff.

In addition, the Reagan administration's emphasis on reduced paperwork hit the savings and loan industry hard. Savings and loans no longer had to submit detailed monthly reports to their district Federal Home Loan Bank Board examiners. At the same time that savings and loans were allowed to undertake increasingly risky lending practices, supervision of their business decreased sharply.

Others say that deregulation was only part of the problem. A combination of factors fueled the savings and loan crisis, including a worsening residential and commercial real estate picture. In 1980, savings and loans foreclosed (repossessed the properties of) less than one half of 1 percent of their mortgage loans. In 1987, the figure rose to almost 3 percent.

Unscrupulous and inexperienced thrift officers also helped bring down the industry. The greed and dishonesty of savings and loan owners and officers received considerable publicity. Even against the backdrop of the get-rich-quick 1980s, the thrift owners' opulent offices, extravagant vacations, corporate jets, luxury cars, and lavish art collections made front-page news. L. William Seidman, former chair of the FDIC and the Resolution Trust Corporation, reported that fraud—including dishonest appraisals of property values; loans to thrift officers, family, and associates; kickbacks; and payoffs—had been found in 60 percent of the savings and loan failures.

The drop in oil prices contributed to the crisis as well. The price for West Texas intermediate crude oil dropped from around $30 a barrel in the early 1980s to a low of under $10 in the mid-1980s. The Southwest and other areas dependent upon the petroleum industry were soon riddled with troubled savings and loan companies and banks. In addition, the October 1987 stock market crash weakened the national economy and wounded various financial deals that were keeping some thrifts in business.

CONGRESS AND SPECIAL INTEREST GROUPS

Some scholars say the savings and loan problem was worsened by the influence of lobbying groups for the thrifts. Many members of Congress

UPI/Bettmann

Across the country in the 1980s, savings and loan associations changed titles, changed hands, and changed forever the country's financial industry. In Denver, workers take down the sign for the failed Silverado Banking savings and loan—soon to be combined with another thrift and renamed under new ownership. Silverado gained special notoriety for the involvement of one of its board members, Neil Bush, a son of President Bush.

were willing to do whatever interest groups wanted them to do in exchange for campaign contributions or favors from those groups.

On Capitol Hill, powerful and persistent lobbyists urged members of Congress to ease up on regulations and pass legislation that the savings and loan industry wanted. Even if financial rewards were not a motivation for legislators, the thrift industry was a major force everywhere, peopled with "pillars of the community" in every state. "You've got to remember that each community has a savings and loan; some have two, some have four, and each of them has seven or eight board members," said Arkansas Senator David H. Pryor, a member of the Senate Ethics Committee. "They own the Chevy dealership and the shoe store. And when we saw these people, we said, gosh, these are the people who are building the homes for people, these are the people who represent a dream that has worked in this country."

Interest group influence also caused the dramatic (some would say lethal) boost in the FSLIC guarantee on individual deposits from $40,000 to $100,000 in 1982. In 1934, when the new government insurance fund was created to guarantee the safety of individuals' savings accounts, the ceiling was pegged to roughly twice the average annual household income. If a bank or thrift failed, any amount above that ceiling would be lost to the saver. In 1982, if the insured deposit limit were based on the same scale, that figure would be much less than $50,000. By boosting the limit to $100,000—far beyond any relation to the annual income of most families—the members of the Senate and House Banking Committees were pleasing powerful banking and thrift interest groups (which had given many of those members generous campaign contributions). But the legislators were ignoring the pleas of FSLIC officials and others who correctly predicted that this move would bankrupt the insurance fund.

Many students of the savings and loan crisis also point to political influence as a cause of the government's failure to address the problem early on. Some members of Congress even interfered with savings and loan examiners' efforts to shut down insolvent thrifts. Such members included the "Keating Five," who had received a big chunk of the $1.47 million that Lincoln Savings and Loan owner Charles Keating passed out around Congress between 1984 and 1988. Unfortunately for American taxpayers, every day that bankrupt thrifts stayed open added millions to the cost of repaying investors' guaranteed deposits.

REREGULATION IN THE SAVINGS AND LOAN INDUSTRY

By the time George Bush took office in 1989, the FSLIC was bankrupt and more savings and loans were failing. The federal government had to do something to keep the national economy from failure and the public from panicking. Government officials needed to act fast to rescue the nation's savings and loan industry.

In August 1989, through the 932-page Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), Congress reorganized the savings and loan regulatory bodies. That initial legislation provided $159 billion over ten years to bail out and manage the savings and loan industry. The Office of Thrift Supervision (OTS), a new bureau of the Treasury Department, was created to charter federal thrift institutions and regulate federal and state-chartered thrifts. The Resolution Trust Corporation (RTC) was created as a temporary agency to manage and sell the assets of the failed savings and loans that the government had taken over. The FSLIC was eliminated, and replaced by the Savings Association Insurance Fund (SAIF), to be administered by the FDIC.

President Bush increased the Justice Department's budget to "enable it to create a nation-wide program to seek out and punish those that have committed wrongdoing in the management of the failed institutions." However, attempts to prosecute wrongdoers and recover losses have not been as effective as hoped. Much of the money cannot be reclaimed for a variety of reasons. Some borrowers, for instance, got unscrupulous land appraisers to overvalue the land or properties they were using as collateral on their loans. When they did not repay the loans, the thrift repossessed land worth just a fraction of the amount of money they had already given away to the borrower.

AP/Wide World Photos

One of the most notorious figures in the savings and loan scandal was Charles Keating, owner of the Lincoln Savings and Loan, based in California and Arizona. The collapse of his thrift will end up costing taxpayers $2.6 billion, more than any other savings and loan failure. Keating's huge contributions to political candidates bought him their intervention in federal investigations against Lincoln. Here he is on his way to the Los Angeles jail to await arraignment on criminal charges of fraudulent transactions, insider loans, and other illegal schemes. In April 1992, Keating was sentenced to ten years in prison, the first judgment in a series of trials that could leave him facing more than 500 years in prison.

Many of the FIRREA mandates read like a rollback of previous deregulation. Bureaucratic oversight and guidelines were greatly increased. Savings and loan reserve requirements were boosted from 3 percent to 6 percent (just a few years after they had been cut from 5 to 3 percent). Supervisory controls would be improved so that regulators would be in a better position to prevent future abuses. The number of employees hired for investigating and prosecuting bank and thrift fraud—serving much as the old thrift examiners—would be doubled. Savings and loans would be required to contribute higher premiums to the industry's insurance fund.

Some say that if reregulation and the other steps President Bush took to stop the savings and loan crisis in 1989 had been taken by President Reagan in 1986, the cost would have been only a tenth of what it grew to be in just three years.

PROSPECTS FOR THE FUTURE

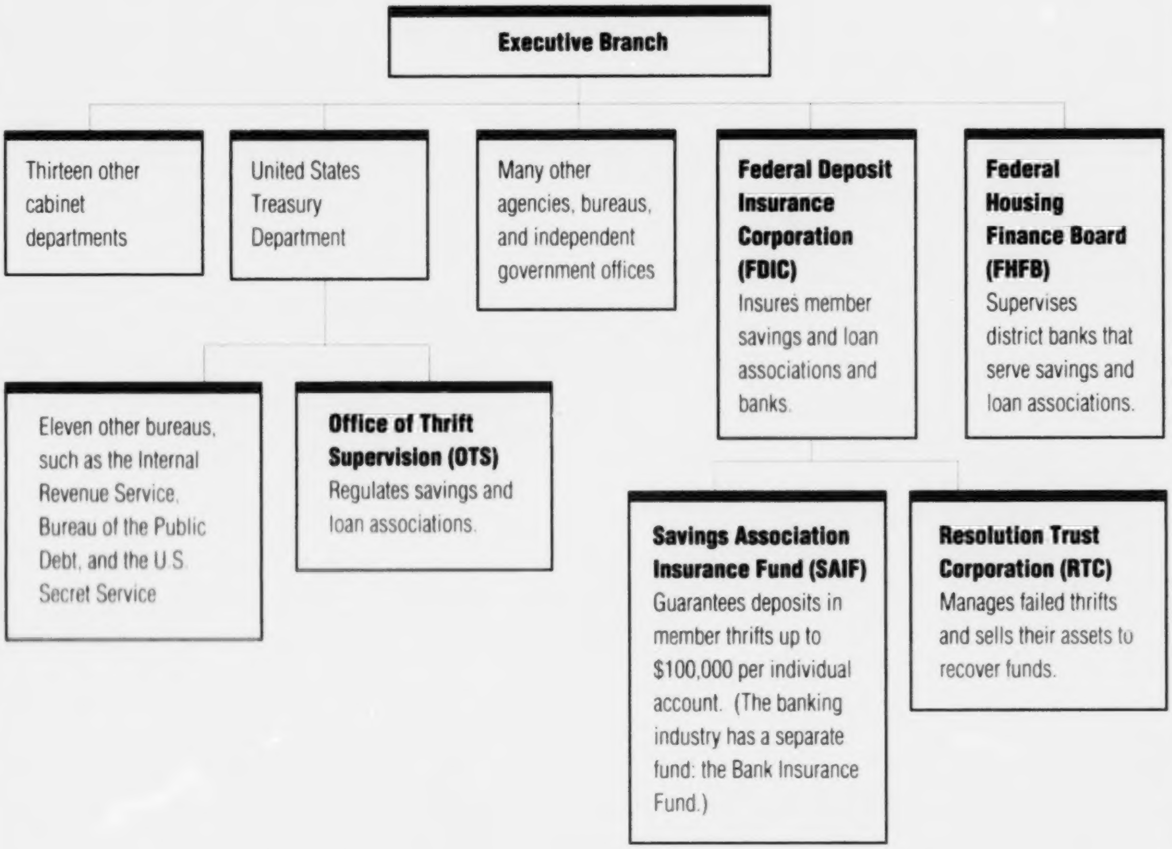
By law, the RTC is required to finish the savings and loan cleanup by December 31, 1996, but time will tell if its task can be accomplished by then. By the summer of 1990, the one-year-old RTC had become the nation's largest financial institution, controlling assets valued at $200 billion, although their real value was much less. Who pays for this management of failed thrifts? The RTC is funded by the taxpayers who must carry the added burden of paying for the bail-out. The job promises to be an expensive one.

In 1991, after the new Office of Thrift Supervision and the Resolution Trust Corporation surveyed the savings and loan situation, more accurate projections of costs were determined. Current costs to the federal government's budget are estimated at $500 billion, translating to a cost of $8,000 from every four-person household in the United States.

THE BUREAUCRACY BEHIND THE SAVINGS AND LOAN INDUSTRY

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) totally restructured the savings and loan industry regulatory agencies that had been in place since 1932. The Federal Home Loan Bank System (FHLBS) was abolished and replaced with a new structure that separated the insurance, regulatory, and supervisory function of the old FHLBS. The new agencies serve as checks and balances for each other.

These different offices have varying links to the Senate and House Banking Committees. Laws and regulations affecting the savings and loan industry are written in those committees, voted on by Congress, and signed or vetoed by the president.


Executive Branch
Thirteen other cabinet departments
United States Treasury Department
Many other agencies, bureaus, and independent government offices
Federal Deposit Insurance Corporation (FDIC) Insures member savings and loan associations and banks.
Federal Housing Finance Board (FHFB) Supervises district banks that serve savings and loan associations.
Eleven other bureaus, such as the Internal Revenue Service, Bureau of the Public Debt, and the U.S. Secret Service
Office of Thrift Supervision (OTS) Regulates savings and loan associations.
Savings Association Insurance Fund (SAIF) Guarantees deposits in member thrifts up to $100,000 per individual account. (The banking industry has a separate fund: the Bank Insurance Fund.)
Resolution Trust Corporation (RTC) Manages failed thrifts and sells their assets to recover funds.

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THE JUDICIARY

THE JUDICIARY

In the *Federalist* papers, Alexander Hamilton argued that the judiciary was the "least dangerous" branch of government. To Hamilton, courts had neither the executive's power of the sword nor the legislature's power of the purse, so they posed no threat to democratic government. But through the power of judicial review, courts have frequently overturned the laws passed by democratic legislatures. Some critics charge that the courts have gone too far—that unelected judges are making law, not interpreting it. The articles in this chapter examine the scope of judicial power.

An independent judiciary is essential to protecting individual freedoms, according to Chief Justice William Rehnquist. He points out that many nations have constitutions with declarations of rights similar to our Bill of Rights, but they have no independent judiciary to enforce those rights. Only a judiciary independent of the government, says Chief Justice Rehnquist, can set limits on the powers of the government. Otherwise, as in the French Revolution, the courts are merely the puppets of the state.

Women's role in the legal profession and the courts has been limited by a belief that women think differently than men, notes Justice Sandra Day O'Connor, the first woman appointed to the Supreme Court. She traces the progress of early women lawyers and recalls that when she herself graduated from law school near the top of her class, the only job she could get at any national law firm was as a legal secretary. Justice O'Connor decries the "new feminism," which argues that female judges decide cases differently than their male colleagues; she believes that "a wise old man and a wise old woman reach the same conclusion."

How does the Supreme Court decide what cases to decide? Phillip L. Spector, a former law clerk at the Supreme Court, outlines the decisionmaking process of the court in determining which 125 cases of the more than 5,000

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submitted it will hear. Under the "rule of four," a case will be heard if four justices agree. Some of the factors in that decision include whether the case presents an important issue with a broad impact, whether federal appellate courts disagree on the issue, whether the federal government requests review by the Court, and whether a criminal defendant might go free because of a lower court's ruling.

Does the kind of justice criminal defendants receive depend on how much money they have? Yes, argues Mary Broderick, a director of the National Legal Aid and Defender Association. Public defenders represent those accused of crimes who cannot afford their own lawyers. But, Broderick says, state and local governments spend four times as much to prosecute people as to provide defense services. According to Broderick, there cannot be equal justice without more equal funding.

How should judges interpret the Constitution? Robert H. Bork, a legal scholar and former federal judge, argues that unelected judges, to be faithful to democracy, must not impose their own subjective values on the people's elected representatives. Instead, says Bork, they should rely on the intent of the framers of the Constitution to interpret its meaning.

Conversely, Laurence H. Tribe, a professor of constitutional law at Harvard Law School, maintains that the Constitution's most important phrases are deliberately ambiguous because the framers themselves intended for it to evolve. For Tribe, judges cannot "avoid the painful duty of exercising judgment so as to give concrete meaning to the fluid Constitution."

Experts disagree on the limits of judicial review as well. Judicial activism is when judges overturn statutes and previous court decisions, or precedents, thus creating broad changes in public policy. Judicial restraint is when judges refrain from such action, believing that public policy is best left to popularly elected legislatures. This chapter's case study explores the boundary between judicial review and judicial activism on the issue of abortion, specifically in the case of *Roe v. Wade* (1973).

The Constitution establishes an independent, unelected judiciary to protect individual rights against the tyranny of the majority. The judiciary guards the individual from the power of the government. But how are citizens protected against the power of judges? In the words of Judge Bork, who guards the guardians?

Close Up Foundation/Renee Bouchard

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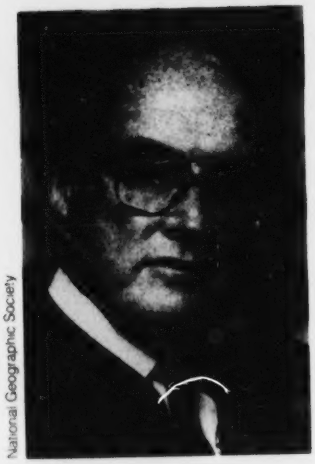
THE BILL OF RIGHTS AND AN INDEPENDENT JUDICIARY



National Geographic Society

Chief Justice William H. Rehnquist

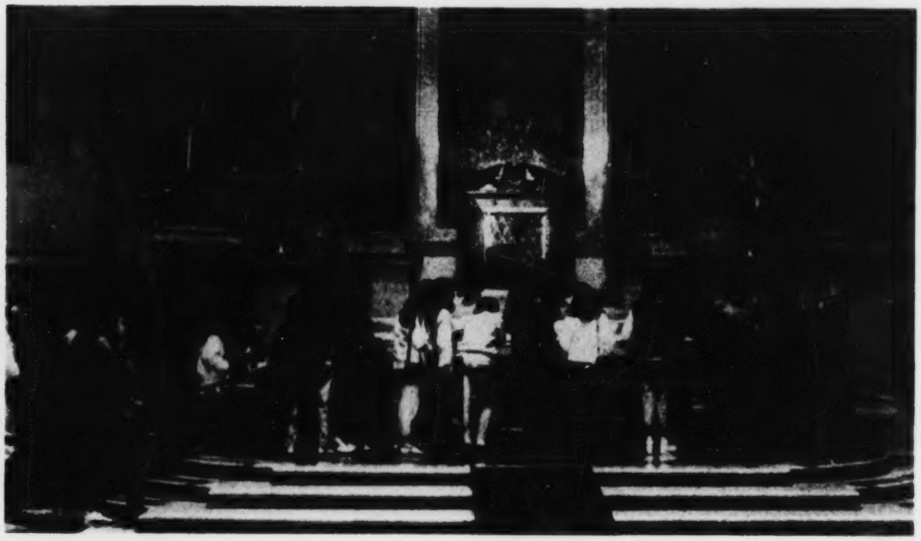
was appointed to the U.S. Supreme Court in 1971 as an associate justice and became chief justice in 1986.

The concept of a bill of rights is hardly unique to the United States; many nations have constitutions containing similar declarations of rights and liberties. The genius of our system was to create not only a bill of rights, but also a coequal judiciary, independent of the president and the Congress, which could enforce those rights. Lofty sounding declarations mean little in the absence of an institutional structure to give them meaning. Only an independent judiciary can enforce individual rights and other constitutional limits on the powers of government.

Other nations have failed in this respect. The former Soviet Constitution, for example, contained a broad declaration of individual rights and liberties. But from Stalin's show trials of the '30s to the Gulag of more recent vintage, the lofty pronouncements of that document failed to fulfill their literal promises. Similarly, the "Fundamental Rights and Duties of Citizens" of the People's Republic of China fell far short of protecting the protestors of Tiananmen Square.

We can look to the French Revolution for another example, to a bill of rights that is older than our own. In 1789, that country also produced both a constitution and a Declaration of the Rights of Man and the Citizen. Similar to our Bill of Rights, the French Declaration proclaimed freedom of religious opinions and the right of every citizen to speak, write, and publish freely. It further provided that a person was presumed innocent until convicted, that no one should be accused, arrested, or imprisoned unless determined by law. However, the 1789 French Constitution was conspicuous in its failure to create any institution capable of safeguarding these rights.

And, four years later, the French Revolution had degenerated into the Reign of Terror. One recent French historian has described the trials of this period as "judicial murder," where not merely hundreds but thousands of people were guillotined. During the Reign of Terror—from 1793 to 1795—300,000 persons were imprisoned, about 20,000 people lost their heads to the guillotine, and another 20,000 died in prison or were executed without any pretense of trial. All of this happened because the National Convention—the body composed of representatives of the people, which corresponded to our Congress—chose to bypass the regular courts for certain criminal offenses. For those offenses, it created a Revolutionary



The Bill of Rights is on permanent display at the National Archives in Washington, D.C.

Close Up Foundation/Renée Bouchard

Tribunal, then, as now, a synonym for a kangaroo court.

The Revolutionary Tribunal had a number of peculiar qualities: any "political offense" could be tried before it, and it could come up with only two verdicts—acquittal or death. The convention frequently changed the tribunal's procedures, size, and composition when the "justice" it dispensed was not revolutionary enough. Judges and jurors were added and removed at the convention's pleasure. It would be difficult to imagine a formula more certain to produce despotism. All this happened in a country that only a few years before had adopted the ringing Declaration of the Rights of Man and of the Citizen. Obviously, something went terribly wrong between 1789 and 1793.

In December of 1791, the U.S. Bill of Rights was little more than contingent promises awaiting the development of institutions to promote and enhance them. Astute statesmen of that era recognized the vital role a bill of rights could play, if there existed an independent judiciary to enforce it. Thomas Jefferson stated that a bill of rights would place a "legal check" into the hands of the judiciary, particularly the Supreme Court, which he characterized as the "guardian of citizen rights" whose role was to "resist every encroachment upon those rights."

Similarly, in *The Federalist* No.78, Alexander Hamilton argued that liberty would be jeopardized without an independent judiciary. We need only return to the example of the French Declaration of the Rights of Man to illustrate this point. During the Reign of Terror in France, the declaration's guarantees went by default because no court had the legal authority or the political power to stand up to the convention. Judicial officers either identified with the convention or proved too weak to stop its excesses.

Fortunately, at the same time a different type of development, building on English common law traditions and republican political theory, took place in the United States. This development recognized the judiciary's vital role in a democratic republic and the need for an independent judiciary.

A constitution's impressive catalog of individual rights or limitations on government power is not enough if the judges who are called upon to enforce these rights have no independence from the other branches of government. This is particularly true in times of war or national emergency, when there is sound reason for the government to wish to exert its authority in ways that it would not do in peace time, and a tendency among the great majority of the people to acquiesce in the exercise of that authority.

Examples of this abound throughout history; let us consider one that occurred shortly after the United States entered the Second World War. After the Japanese attack on Pearl Harbor on December 7, 1941—shortly before the 150th anniversary of the Bill of Rights—there was a tremendous upsurge of patriotic spirit in the United States. Governmental bodies began to look for ways of instilling patriotism, particularly in schoolchildren.

In West Virginia, the state board of education, only a month after the Pearl Harbor attack, passed a regulation requiring that all teachers and pupils in the public schools of West Virginia participate regularly in programs that included a salute to the United States flag and a recital of the pledge of allegiance. Those who refused to do so would be expelled from school.

Members of the Jehovah's Witnesses refused to participate in this exercise on the grounds that it conflicted with their religious beliefs, in particular their belief that the United States flag was an "image" within the command found in the Book of Exodus that "thou shalt not make unto thee any graven image. . . ." When they refused to participate in the flag salute ceremony, these children were expelled from school, and threats were made by local officials to send them to juvenile reformatories.

The parents challenged this regulation in court. The case went to the Supreme Court under the name of *West Virginia Board of Education v. Barnette*, and in 1943 in a memorable opinion by Justice Robert Jackson, the Court ruled in favor of the parents. It held that compulsory flag salutes or pledges of allegiance violated the First Amendment's guarantees of freedom of speech and freedom of religion. Jackson's opinion did not question the desirability of fostering national unity in time of war, which was the justification for the flag salute urged by the West Virginia officials. But it said:

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

The principle laid down in that opinion has remained the law from that day to this. But what I hope to have illustrated is that while the principle of political and religious freedom embodied in the First Amendment was inscribed in that document 200 years ago, it did not thereby spring to life as a doctrine by which citizens govern their affairs. It took an independent judiciary to make the principles of the Bill of Rights the living reality that they are today.

Adapted from a speech at the National Archives celebrating the bicentennial of the Bill of Rights.

Supreme Court Historical Society

Justice Sandra Day O'Connor

was appointed to the U.S. Supreme Court in 1981, after serving as a state senator and a state judge in Arizona.

PORTIA'S PROGRESS: WOMEN AND THE LAW

Most of the early women legal pioneers faced a profession and a society that espoused what has been called "the cult of domesticity," a view that women were by nature different from men. Women were said to be fitted for motherhood and homelife, compassionate, selfless, gentle, moral, and pure. Their minds were attuned to art and religion, not logic. Men, on the other hand, were fitted by nature for competition and intellectual discovery in the world, battle-hardened, shrewd, authoritative, and tough-minded.

Women were thought to be ill-qualified for adversarial litigation because it required sharp logic and shrewd negotiation, as well as exposure to the unjust and the immoral. In 1875, the Wisconsin Supreme Court told Lavinia Goodell that she could not be admitted to the state bar. The chief justice declared that the practice of law was unfit for the female character. To expose women to the brutal, repulsive, and obscene events of courtroom life, he said, would shock man's reverence for womanhood and relax the public's sense of decency.

In a similar case, Myra Bradwell of Chicago, who had studied law under her husband, applied to the Illinois bar in 1869 and was refused admission. The Illinois Supreme Court reasoned that, as a married woman, her contracts were not binding, and contracts were the essence of any attorney-client relationship. The court also proclaimed that "God designed the sexes to occupy different spheres of action, and that it belonged to men to make, apply, and execute the laws."

In *Bradwell v. Illinois* (1872), the United States Supreme Court, I blush to admit, agreed with the Illinois court. Justice Bradley, concurring in the Court's opinion, cited the natural differences between men and women as the reason Myra Bradwell could not be admitted. He wrote:

> Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life.

Even Clarence Darrow, one of the most famous champions of unpopular causes, had this to say to a group of women lawyers: "You can't be shining lights at the bar because you are too kind. You can never be corporation lawyers because you are not cold-blooded. You have not a high grade of intellect. I doubt you can ever make a living."

Editor's Note. Portia is a female character in Shakespeare's play, ***The Merchant of Venice***, who disguises herself as a male lawyer to represent a friend in court.

Luckily for women lawyers today, our female predecessors had far more spunk, spirit, and wit than they were given credit for. Clara Shortridge Foltz, the first woman lawyer in California, displayed the characteristic mettle of these early women lawyers. When an opposing attorney once suggested in open court that she had better be at home raising children, Foltz retorted: "A woman had better be in almost any business than raising men such as you."

In my own time, and in my own life, I've witnessed the revolution in the legal profession that has resulted in women representing nearly 30 percent of attorneys in this country, and over 40 percent of law school graduates. The American Bar Association projects that forty years from now half the country's attorneys will be women. I myself, after graduating near the top of my class at Stanford Law School, was unable to obtain a position at any national law firm, except as a legal secretary. Yet I have since had the privilege of serving as a state senator, a state judge, and a Supreme Court justice.

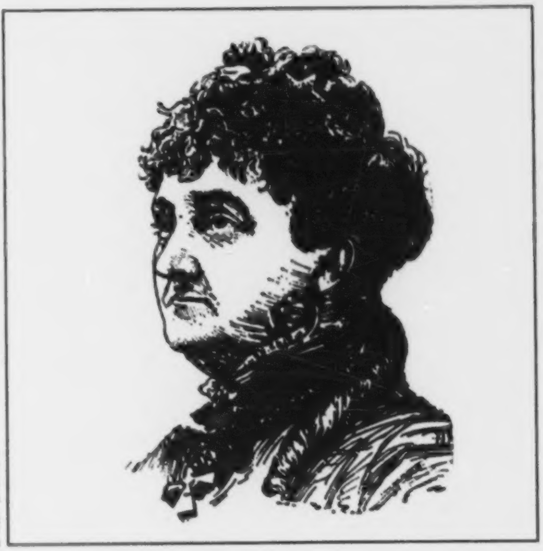
Women today are not only well-represented in law firms, but are gradually attaining other positions of legal power, representing 7.4 percent of judges, 25 percent of U.S. attorneys, 14 percent of state prosecutors, 18 percent of state legislators, 17 percent of state executives, 9 percent of county governing boards, 14 percent of mayors and city council members, 6 percent of U.S. congresspersons, and of course, just over 11 percent of U.S. Supreme Court justices. Until the percentages come closer to 50 percent, we cannot say we have succeeded. Still, the progress in my own time has been astounding.

That progress has been due in large part to the explosion of the myth of the "true woman" through the efforts of real women and the insights of real men. Released from these prejudices, women have proved they can do a "man's job."

The new presence of women in the law has prompted many feminist commentators to ask whether women have made a difference to the profession, whether women have different styles, aptitudes, or liabilities. Ironically, the move to ask again the question of whether women are different merely by virtue of being women recalls the old myths we have struggled to put behind us. Undaunted by the historical overtones, however, more and more writers have suggested that women practice law differently than men. One author has even concluded that my opinions differ in a peculiarly feminine way from those of my colleagues.

The gender differences cited currently are surprisingly similar to stereotypes from years past. Women attorneys are more likely to seek to mediate disputes than litigate them. Women attorneys are more likely to focus on resolving a client's problem than vindicating a position. Women attorneys are more likely to sacrifice career advancement for family obligations. Women attorneys are more concerned with public service or fostering community than with individual achievement. Women judges are more likely to emphasize context and deemphasize the general principles. Women judges are more compassionate. And so forth.

This "new" feminism is interesting, but troubling, precisely because it so nearly echoes the Victorian



Brown Brothers

Myra Bradwell appealed to the Supreme Court to allow her to become a lawyer, but in 1872 the Court held that the "law of the Creator" forbade women from working outside the home.

myth of the “true woman” that kept women out of law for so long. It is a little chilling to compare these suggestions to Clarence Darrow's assertions that women are too kind and warm-hearted to be shining lights at the bar.

Asking whether women attorneys speak with a “different voice”* than men do is a question that is both dangerous and unanswerable. It sets up again the polarity between the feminine virtues of homemaking and the masculine virtues of breadwinning. It threatens, indeed, to establish new categories of “women's work” to which women are confined and from which men are excluded.

Do women judges decide cases differently by virtue of being women? I would echo the answer of my colleague, Justice Jeanne Coyne of the Supreme Court of Oklahoma, who responded that “a wise old man and a wise old woman reach the same conclusion.”

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**Editor's Note:* Carol Gilligan, in her book *In a Different Voice: Psychological Theory and Women's Development,* maintains that women and men differ in their moral development, and that women's moral values have been labeled inferior by psychological studies based on men.

THE SUPREME COURT: DECIDING WHAT TO DECIDE

Close Up Foundation/Renee Bouchard

Phillip L. Spector

is a partner in the law firm of Goldberg & Spector in Washington, D.C. He served as a law clerk to U.S. Supreme Court Justice Thurgood Marshall from 1977 to 1978.

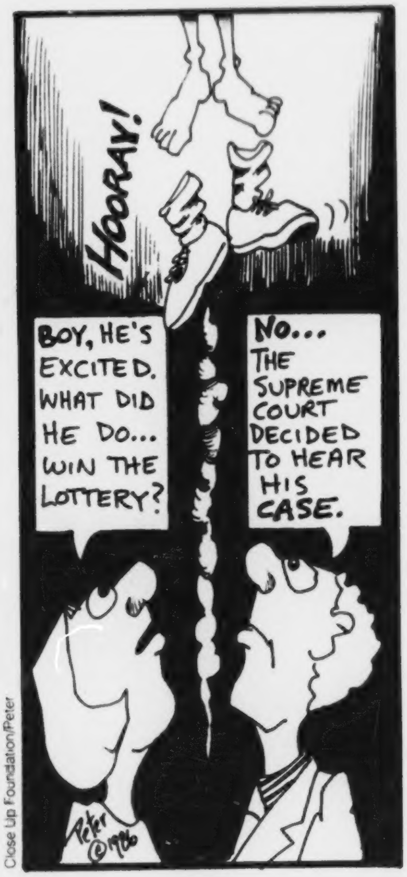
When most of us think of the Supreme Court, our first thought is of the major cases that grab the headlines in our nation's newspapers. Whether the subject is affirmative action or abortion, the rights of the press or the rights of criminals, government budget-cutting or school prayer, the Supreme Court often plays a crucial role in deciding the critical issues that we face as a government and a people. Thus, when a news announcer says, "The Supreme Court decided today . . . ," we all stop and listen.

As we listen, most of us do not think about the many, many cases that the Supreme Court chose not to decide. For example, if you were a litigant and had asked the Supreme Court to review your case in 1990-91, you would have had about one chance in twenty-two of succeeding with your request. And, of course, succeeding in having the Supreme Court hear your case does not mean that you will necessarily win in the Supreme Court; it only means that the justices have decided to decide.

To understand the Supreme Court's discretion to decide which cases it will hear, one must first understand how cases reach the Supreme Court. Whether coming from a state court or from a federal court, a case typically will not end up in the Supreme Court until it has been considered by a trial judge, sometimes working with a jury. Once the trial judge or jury has ruled, the facts of a case are generally assumed to be as the judge or jury found them, but the losing side almost always has a right to appeal the trial-level decision to a higher court. The appeal is based primarily on how the law was applied to the facts of the case. In our judicial system, every litigant is entitled to at least one—and sometimes two or three—appeals before a case may reach the Supreme Court.

Once lower court appeals have been exhausted, the losing party may file a request for review with the Supreme Court. The most common form of request is a petition for "certiorari" (or review). Once a certiorari petition or appeal is filed, the opposing side may reply, and then the petition and reply are reviewed by the justices and their law clerks. Despite the fact that more than 5,000 requests for review may be filed with the Supreme Court in a year, every petition is read by a justice or clerk before a decision to deny is made.

On most Fridays from September through June, the nine justices sit together in "conference." No other


HOORAY!
BOY, HE'S EXCITED. WHAT DID HE DO... WIN THE LOTTERY?
NO... THE SUPREME COURT DECIDED TO HEAR HIS CASE.
Peter ©1986

Close Up Foundation/Peter

persons—secretaries, law clerks, or assistants—are with them as they discuss not only the decisions in the cases that they have accepted for review, but also which of the thousands of cases they should agree to hear. Any justice who thinks that a particular case might be worth reviewing may put it on the list for the conference, and in the conference, an informal "rule of four" is followed.

This rule, which is not written anywhere, means that a case is reviewed on its merits—typically by granting certiorari—if four of the nine justices vote to hear it. Any justice who wants to hear a case, but cannot persuade his or her colleagues, may ask that the announcement of the certiorari petition's denial be delayed while that justice writes memoranda or talks to colleagues in an effort to persuade them to join him or her.

What factors do the justices consider in deciding which cases to hear? Although each justice has his or her own reasons for voting to grant or deny, certainly the overriding criterion for all justices is one of importance. If a case has something important about it, something unique and significant for the country or the legal system, it is likely to be heard. If there is nothing important or unique about a case, the certiorari petition will almost always be denied.

Beyond this general criterion of importance are a few more specific criteria:

- If two appellate courts in the federal system are in conflict on a legal principle—that is, the two courts have reached different conclusions as to what the law requires in a particular situation—the Supreme Court is likely to grant certiorari to resolve the conflict.
- If a lower court has declared that a federal or state statute violates the U.S. Constitution and accordingly cannot be enforced, the justices are also likely to grant certiorari, unless the lower court has followed clear Supreme Court precedent in reaching its conclusion.
- In criminal cases (which constitute a large percentage of the Supreme Court's docket), the justices will take a hard look at any decision that might lead to a convicted criminal's going free because of a lower court's perception of what the law requires.
- If the federal government asks the Supreme Court for review, the request will carry more weight than if an ordinary citizen is seeking review.
- If the case deals with large issues of concern to us all (such as school prayer), review is more likely than when the Court's decision would affect only the litigants in the case.
- When the Supreme Court is struggling to establish useful guidelines in particularly controversial areas, such as abortion or libel, review is more likely than when the case is in an area in which the body of law has been relatively stable for a long period.

One frequent question is whether a rich person's chances of being heard in the Supreme Court are better than a poor person's. At first glance, the statistics would seem to indicate that this is the case. In 1990-91, the Supreme Court granted review in less than 1 percent of the cases filed *in forma pauperis*—cases for which the Supreme Court waived the normal filing fee. By contrast, review was granted in nearly 6 percent of the paid cases.

However, these statistics are misleading. A large proportion of the *in forma pauperis* cases are filed by prisoners seeking relief from the Supreme Court after they have exhausted all other avenues of appeal, sometimes in both the state and federal judicial systems. These prisoners are understandably desperate for relief, but their desperation does not necessarily mean that they have a case worthy of Supreme Court review.

Moreover, many *in forma pauperis* cases are filed directly by litigants without the assistance of lawyers. While this fact does not mean that their petitions are treated more lightly by the Supreme Court, it does mean that no lawyer has given the petitioner a realistic assessment of his or her Supreme Court chances. Because a lawyer has a professional responsibility to advise a client that the Supreme Court is not likely to hear the case—and because a lawyer will expect to be paid for filing a certiorari petition—the cases that are filed after a lawyer's screening are more likely to be worthy of review and thus more likely (about six times more likely, according to the 1990-91 statistics) to be heard by the Supreme Court.

From my own experience, I believe that those filing *in forma pauperis*, including those without lawyers, are given a fair shake, and that the justices and their clerks may even bend over backwards to make sure that they understand a particular poor person's claim. If that claim has any merit in terms of the Supreme Court's criteria for hearing cases—i.e., if the case is important enough or if there appears to have been a serious miscarriage of justice—counsel will be appointed for a poor person, and the case will be heard.

In fact, the Supreme Court's history over the past fifty years has been one of protecting the weak and defenseless, the minority citizens and the accused criminals, and the unpopular causes. The popular causes and the rights of the majority have always been protected by the legislative and executive branches of the government, whose officials are elected by virtue of their popularity with the majority. Because the Supreme Court does not have to face election, it has played a key institutional role as the defender of the Bill of Rights.

The Supreme Court's ability to decide what it will decide has had a strong impact on its history and institutional role. By concentrating its attention on those cases where major issues need to be resolved, the Supreme Court has gained a certain legitimacy that it could not have had if it were required to decide every case that came before it.

Moreover, nine justices, no matter how intelligent or hardworking, could not possibly reach individualized determinations on the merits in more than 5,000 cases per year. Just attempting to write full opinions in 125 or so cases per year, while reading and denying thousands of certiorari petitions, taxes the resources of the justices and their staffs. For these reasons, the Supreme Court's discretion to review only the most significant cases is absolutely essential to its continued effectiveness and to the respect accorded the Supreme Court by the American people.

Close Up Foundation/Renée Bouchard

Mary Broderick

is the director of the defender division of the National Legal Aid and Defender Association, which represents more than 2,000 public defender offices throughout the country. She also spent eight years as a trial and appellate attorney with the Defender Association of Philadelphia.

TWO SYSTEMS OF JUSTICE?

As visitors to the Supreme Court mount the front steps of that impressive building, they can see the words "Equal Justice Under Law" emblazoned over the entrance. That ideal is one of the cornerstones of our Constitution. But all too often in America, the kind of justice you get depends on how much money you have.

Our Constitution is 200 years old, but until about thirty years ago, many people charged with felonies—and most people charged with misdemeanors—did not have a lawyer to defend them unless they could afford to hire one. And defendants without lawyers were no match for the prosecuting attorneys who had gone to law school and were used to arguing cases in court. As a result, many innocent people wound up in jail because they were too poor to hire a lawyer.

Then in 1963, the Supreme Court changed everything with its decision in *Gideon v. Wainwright*, reversing the conviction of a man who was convicted and sent to jail after the court refused to appoint a lawyer in his trial on the charge of breaking into a poolroom. The Supreme Court said that the states must appoint free lawyers for felony defendants who cannot afford to hire their own.

That decision was extended to misdemeanor and juvenile cases a few years later. However, it was left up to the states to decide how they would fulfill this obligation, and the different systems now in place across the country mean that defendants get widely different kinds and quality of representation.

In many states and counties, there is a public defender office, usually staffed by a combination of young lawyers a few years out of law school and more experienced lawyers with many trials behind them. Many people believe that this system works best for the client, because the defense lawyer is part of a law firm that does nothing but represent poor defendants. These people believe that public defenders are dedicated to the concept of equal justice for their clients, have the benefit of working in an office that does nothing but criminal defense work, and have the benefit of the support and training provided by other lawyers in the office.

While clients are frequently heard to complain, "I don't want a public defender, I want a real lawyer," in most cases they are not only getting a real lawyer, but a good one as well.

In other jurisdictions, private lawyers are appointed by the court to represent poor defendants and are paid a fee, either by the hour, the day, or the case. And in some counties, the county government contracts with private law firms to handle blocks of cases, either for a lump sum or for a set fee per case.

These systems can work well if they are properly administered and if the lawyers who participate in them are monitored to make sure they are providing clients with high-quality representation.

The biggest problem facing all these systems is lack of funding. Most Americans agree with the Constitution that a person accused of a crime is innocent until his or her guilt has been proved. But the fact is that state and local governments spend almost four times as much money to prosecute people as they do to provide defense services, despite the fact that most of the people accused of crimes are too poor to hire their own lawyers.

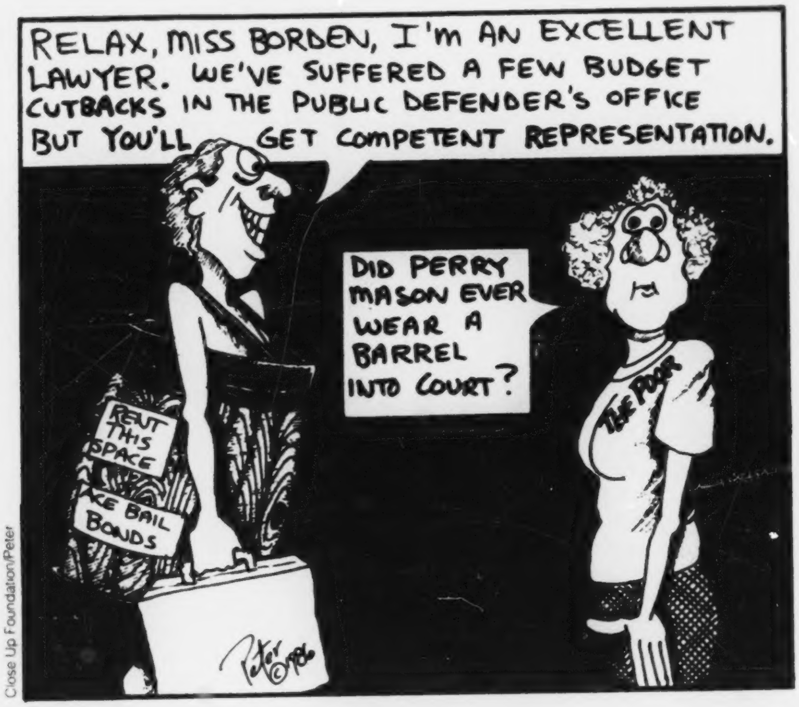
There are many dedicated public defenders and assigned counsel who do a conscientious job, often at great personal sacrifice. However, the imbalance in funding between the prosecution and the defense means all too often that poor defendants are shortchanged:

- In Massachusetts, 36 percent of the court-appointed lawyers who responded to a survey admitted that they did not perform some essential defense duty because they were being paid such a low fee.
- In San Diego, California, the county gave contracts for indigent defense services to low bidders in a money-saving attempt, but eventually had to return to a public defender system after repeated complaints from judges and other lawyers about the contract lawyers' negligence and incompetence.
- In Georgia, defendants can spend months in jail without ever talking to a lawyer or having any kind of hearing—much less a trial—to determine whether they are guilty as charged.

In addition, there are dozens of other jurisdictions across the country where court-appointed lawyers are not screened before they take appointments to see if they know anything about criminal law, nor are they disciplined if they mishandle a case.

Perhaps the most critical area is in death penalty defense. The death penalty is a highly emotional issue, with strong feelings on both sides. But there should be no disagreement about the fact that someone charged with a crime that could result in a death sentence is entitled to the best possible representation before, during, and after his or her trial. Unfortunately, in many jurisdictions that representation is severely hampered by lack of funding.

For example, in some jurisdictions, there is a cap on the amount of money attorneys can recover for their work in death penalty cases, despite the fact that these cases can take months or even years to litigate.


RELAX, MISS BORDEN, I'M AN EXCELLENT LAWYER. WE'VE SUFFERED A FEW BUDGET CUTBACKS IN THE PUBLIC DEFENDER'S OFFICE BUT YOU'LL GET COMPETENT REPRESENTATION.
DID PERRY MASON EVER WEAR A BARREL INTO COURT?
RENT THIS SPACE
ACE BAIL BONDS
THE POOR
Peter ©1986

Close Up Foundation/Peter

Consequently, the defense attorney is forced to make a choice between continuing to represent the client without fee or withdrawing from the case. However, the judge and the prosecutor get paid no matter how long the case takes.

In the final analysis, these issues all relate back to the second-class status that state and local governments impose on defense services for the poor.

What is the solution?

State and local governments first must be willing to acknowledge that the provision of high-quality representation to poor people in criminal cases is an important function of the government—equal in importance to the provision of a court system and a prosecutor.

State and local governments must also be willing to fund the defense system adequately, so public defender offices can be properly staffed and appointed defense lawyers will be paid a fair amount for their services. In addition, support services, such as investigators and expert witnesses, should be provided without the lawyer's having to foot the bill.

Finally, state and local governments must make a commitment to screening lawyers who want to be appointed in criminal cases to make sure those lawyers have the training and skill to give their clients the best possible representation. Governments should also monitor the lawyers' performance to make sure they do a competent job for their clients and remove those lawyers who don't measure up.

When state and local governments begin to live up to these obligations, poor people who are accused of crimes will begin to get the same quality of justice as those who can afford to hire their own lawyers.

HOW JUDGES SHOULD INTERPRET THE CONSTITUTION: TWO VIEWS

American Enterprise Institute

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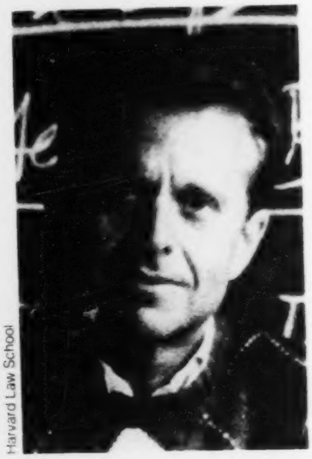
THE THEORY OF ORIGINAL INTENT

In the past few decades, American institutions have struggled with the temptations of politics. In law, the moment of temptation is the moment of choice, when judges realize that in the case before them their strongly held views of justice, their political and moral philosophies, are not embodied in a statute or in any provision of the Constitution. They must then choose between their version of justice and abiding by the American form of government. Yet the desire to do justice, whose nature seems to a judge obvious, is compelling, while the concept of constitutional process is abstract, rather dry, and the restraint it demands rather unsatisfying. To give in to temptation, this one time, solves an urgent human problem, and a faint crack appears in the American foundation. A judge has begun to rule where a legislator should.


Harvard Law School

Laurence H. Tribe

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THE MYTH OF STRICT CONSTRUCTIONISM

Some would argue that constitutional adjudication is simply the job of correctly reading the Constitution. If the Supreme Court justices interpret our great charter in a straightforward manner—if they pay close attention to its words and avoid stretching their meanings—there will be few occasions for controversies. All that the president and the Senate need do is stop appointing "activist" judges who impose their own philosophies upon the document they are sworn to uphold, and appoint instead properly "restrained" jurists who know, and will not exceed, a judge's properly limited place. So the argument goes. It is simple and appealing—but plainly wrong.

This approach to judicial review is usually known as strict constructionism, and its guiding principle is exclusive attention to the constitutional text. The Supreme Court's justices must take the Constitution as they find it, and not worry about the morality of the outcome. Even if the justices are appalled by the results this method produces, or believe that the Constitution's literal commands are severely out of step with the times, it is not their job to reinterpret it. That prerogative belongs to the Congress and the president—and ultimately to the people, who retain

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The Constitution preserves our liberties by providing that all of those given the authority to make policy are directly accountable to the people through regular elections. Federal judges, alone among our public officials, are given life tenure precisely so that they will not be accountable to the people. If it were otherwise, if judges were accountable, the people could, when the mood seized them, alter the separation of powers, do away with representative government, or deny basic freedoms to those out of popular favor. But if judges are, as they must be to perform their vital role, unelected, unaccountable, and unrepresentative, who is to protect us from the power of judges? How are we to be guarded from our guardians? The answer can only be that judges must consider themselves bound by law that is independent of their own views of the desirable. They must not make or apply any policy not fairly to be found in the Constitution or a statute.

What does it mean to say that a judge is bound by law? It means that he or she is bound by the only thing that can be called law, the principles of the text, whether Constitution or statute, as generally understood at the enactment. This philosophy of original intent or original understanding—that a judge is to apply the Constitution according to the principles intended by those who ratified the document—was once the dominant view of constitutional law, but is now very much out of favor with legal theorists. Only the approach of original understanding, however, is consistent with our democratic system of government.

The central problem for constitutional courts is the resolution of the "Madisonian dilemma." The United States was founded as a Madisonian system, which means that it contains two opposing principles that must be continually reconciled. The first principle is self-government, which means that in wide areas of life majorities are entitled to rule, if they wish, simply because they are majorities. The second is that there are nonetheless some things majorities must not do to minorities, some areas

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the power to *amend* the Constitution. The watchword of strict constructionism is "restraint."

The central flaw of strict constructionism is that words are inherently indeterminate—they can often be given more than one plausible meaning. If simply *reading* the Constitution the "right" way were all the justices of the Supreme Court had to do, the only qualification for the job would be literacy, and the only tool a dictionary. But the meanings of the Constitution's words are especially difficult to pin down. Many of its most precise commands are relatively trivial—such as the requirement that the president be thirty-five years old—while nearly all of its most important phrases are deliberate models of ambiguity. Just what does the Fourth Amendment prohibit as an "unreasonable search"? What exactly is the "speech" whose freedom the government may not "abridge"? What is it that we gain by being guaranteed the "equal protection of the laws"? And what, in heaven's name, is "due process"? Such vague phrases not only invite but compel the Supreme Court to put meaning *into* the Constitution, not just to take it out. Judicial construction, or interpretation, inevitably entails a major element of judicial creation.

This is not to say that the Court is free to take the position of Humpty Dumpty, that "a word means just what I choose it to mean—neither more nor less." The justices may not follow a policy of "anything goes" so long as it helps put an end to what they personally consider to be injustice. But the constitutional text is not enough—we need to search for, and explain our selection of, the *principles behind* the words.

Chief Justice John Marshall once wrote that we must remember that "it is a *Constitution* we are expounding." It is the grand charter of a democratic republic, the philosophical creed of a free people, and it was written in broad, even majestic language because it was written to evolve. The statesmen who wrote the Constitution meant the American experiment to endure without having to be reinvented with an endless

BORK CONTINUED . . .

of life in which the individual must be free of majority rule. The dilemma is that neither majorities nor minorities can be trusted to define the proper spheres of democratic authority and individual liberty. To place that power in one or the other would risk either tyranny by the majority or tyranny by the minority.

We have placed the function of defining the otherwise irreconcilable principles of majority power and minority freedom in a nonpolitical institution—the federal judiciary—and thus, ultimately, in the Supreme Court of the United States. The task of reconciliation cannot be accomplished once and for all. The freedom of the majority to govern and the freedom of the individual not to be governed remain forever in tension. The resolution of that dilemma must be achieved anew in every case and is therefore a never-ending search for the correct balance.

The functions assigned to the Court impose a need for a constitutional theory that defines the spheres of the majority and the individual in a sense that can be called "correct." If there is no correct solution, there is no way to assess the work of the courts, and no way to confine the judge's power over us. It is as important to freedom to confine the judiciary's power to its proper scope as it is to confine that of the president, Congress, or state and local governments. The theory must, therefore, enable us to say what is the limit of the judge's legitimate authority. The interpretation of the Constitution according to the original understanding is the only approach that can lead to what Justice Felix Frankfurter called the "fulfillment of one of the greatest duties of a judge, the duty not to enlarge his authority."

When a court strikes down a statute, it always denies the freedom of the people who voted for the representatives who enacted the law. We accept that more readily when the decision is based upon a fair reading of a constitutional provision. The Constitution, after all, was designed to remove a

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series of explicit amendments to its basic blueprint. The Ninth Amendment expressly states that even the Bill of Rights itself is not to be understood as an exhaustive list of individual liberties. The Ninth Amendment thereby invites us, and our judges, to expand on the wide range of freedoms that are uniquely our heritage. Thus the Constitution tells us, both implicitly and explicitly, that what it does *not* say must also be interpreted, understood, and applied.

Another related school of constitutional interpretation takes as its basis the intent of the authors of the Constitution. The task of the Supreme Court, when confronted by ambiguous or open-ended language, is simply to divine what the framers and the authors of the amendments had in mind. One obvious problem with asking "what they meant" is that we must first determine who "they" are. In the case of the Bill of Rights, do we defer to the intentions of the men—yes, it was men only—who drafted it and saw it as an essential safeguard against encroachment on fundamental freedoms, or to the intentions of those who saw the Bill of Rights as unnecessary and unwise, but agreed to its passage because otherwise some states might never have ratified the Constitution?

The nagging doubt prompted by inquiries like these is that no collective body—be it the Congress or the Constitutional Convention or the aggregate of state legislatures—can really be said to have a *single*, ascertainable "purpose" or "intent." And even if such a mythical beast could be captured and examined, how relevant would it be to us today? Should the peculiar opinions held by men who have been dead for two centuries *always* trump contemporary insights into what the living Constitution means and ought to mean? Should we permit others to rule us from the grave through hidden beliefs and premises perhaps deliberately left unstated?

The most serious flaw in both slavish adherence to the constitutional text and the inevitably inconclusive inquiry into the intent of those who wrote it is that they abdi-

BORK CONTINUED . . .

number of subjects from democratic control, subjects ranging from the composition of the houses of Congress to the freedoms guaranteed by the Bill of Rights. But when the Court, without warrant in the Constitution, strikes down a democratically produced statute, that act substitutes the will of a majority of nine lawyers for the will of the people.

There is a story that two of the greatest figures in our law, Justice Oliver Wendell Holmes and Judge Learned Hand, had lunch together. Afterward, as Holmes began to drive off in his carriage, Hand ran after him, crying, "Do justice, sir, do justice." Holmes stopped the carriage and reprimanded Hand: "That is not my job. It is my job to apply the law." I meant something like that when as a judge I dissented from a decision that seemed to proceed from sympathy rather than law: "[W]e administer justice according to law. Justice in a larger sense, justice according to morality, is for Congress and the President to administer, if they see fit, through the creation of new law."

A judge has no authority to impose a moral hierarchy upon society. People can and do disagree about moral or ethical principles. Because we disagree, we put such issues to a vote and, where the Constitution does not speak, the majority morality prevails. Where the Constitution does not apply, judges, while in their robes, must adopt a posture of moral abstention. They must avoid the temptations of politics.

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cate responsibility for the choices that constitutional courts *necessarily* make. The Supreme Court just cannot avoid the painful duty of exercising judgment so as to give concrete meaning to the fluid Constitution. Strict constructionism in all its forms is thus built on the myth that the Supreme Court does not *make* law, but *finds* law ready-made by others.

Thus the members of the Court themselves occasionally duck responsibility for their substantive decisions about what the Constitution should mean by shoving the blame—or the credit—onto the document's supposedly plain words or onto the supposedly evident intentions of the people who penned those words 200 years ago. When Chief Justice Taney declared that blacks were an "inferior class of beings" that could "justly and lawfully be reduced to slavery for the white man's benefit," he claimed that this was not *his* opinion but a conclusion dictated by the language of the Constitution and the obvious intent of the men who wrote it. But disclaimers that "the Constitution made me do it" are rarely more persuasive than those that blame the devil.

The allure of strict constructionism and of those who claim to practice it—their ability to make complicated issues sound simple and tough decisions easy—is precisely what should make us suspicious of it. For it threatens to put us to sleep at the very moments when we must be most alert to the choices that are in fact being made about the Constitution and its impact on our daily lives.

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CASE STUDY

The Judiciary

JUDICIAL ACTIVISM AND ABORTION

by Nancy A. Bergman

Close Up Foundation/Renee Bouchard

This is the story of how the U.S. Supreme Court has affected abortion laws in the United States. As you read, try to answer these questions:

- *What is judicial activism?*
- *What was the general attitude toward abortion in America prior to the mid-1800s?*
- *What factors led to the tightening of abortion laws by 1900 and to the relaxation of those laws beginning in the 1960s?*
- *What was the Supreme Court's decision in* Roe v. Wade?
- *How have opponents of abortion tried to restrict access to it, and how successful have they been?*

In the summer of 1991, Wichita, Kansas, became the focus of the nation's debate over abortion when it was rocked by antiabortion and abortion-rights protests. Antiabortion protesters from around the country had gathered in Wichita for what they called a "Summer of Mercy." These demonstrators blocked entrances to three abortion clinics by lying down in the street to prevent cars from entering the clinics' parking lots. Some protesters carried signs reading "Don't give this killing center your baby" and "Thou shalt not kill." Others held up pictures of aborted fetuses. Some prayed while others tried to convince women who sought abortions to change their minds. "Don't kill your babies," they pleaded, "we'll adopt them."

Every day, the police moved in and arrested dozens of demonstrators. By the end of August, more than 2,600 arrests had been made in Wichita. Many of the antiabortion protesters were arrested more than once as they returned to the clinics day after day.

But the police were not the only other people on the scene. Supporters of a woman's right to have an abortion held their own protests in Wichita in the summer of 1991. They

The Wichita Eagle/Dave Williams

Abortion protesters lie in the street to stop a car from entering Dr. George Tiller's clinic in Wichita, Kansas. Dr. Tiller's clinic was a frequent target of the demonstrations in Wichita in 1991 because he performs abortions late in pregnancy. Many protesters were repeatedly arrested.

marched with signs proclaiming "My body, my choice," "Keep your laws off my body," "America stands for choice," and "Pro-child, Pro-woman, Pro-choice." They came to Wichita to help women safely enter the clinics by shielding them from antiabortion protesters. Sometimes, unable to get to the doors, women seeking abortions were forced to wait for hours in cars while police officers made arrests. When the police had finished, the abortion-rights demonstrators formed a ring around women entering the clinic by linking their arms together, shielding them from the antiabortion protesters who had not been arrested.

The protests in Wichita ended with rallies by both camps. More than 25,000 abortion opponents gathered for a final rally. At the same time, 5,000 abortion-rights supporters gathered to end their counter-protests. One abortion-rights speaker at the rally said, "We may lose *Roe*. Then what will we do?" The crowd chanted, "We will never go back! We will never go back!" referring to their determination not to return to the days of illegal abortion before the Supreme Court's decision in *Roe v. Wade*.

Emotional conflicts between legal abortion's supporters and opponents have been common since the U.S. Supreme Court legalized abortion nationwide in a 1973 case, *Roe v. Wade*. The Court declared unconstitutional most state laws that restricted abortion. Examining the constitutionality of U.S. laws is one aspect of the Court's job; it is part of the system of checks and balances known as judicial review.

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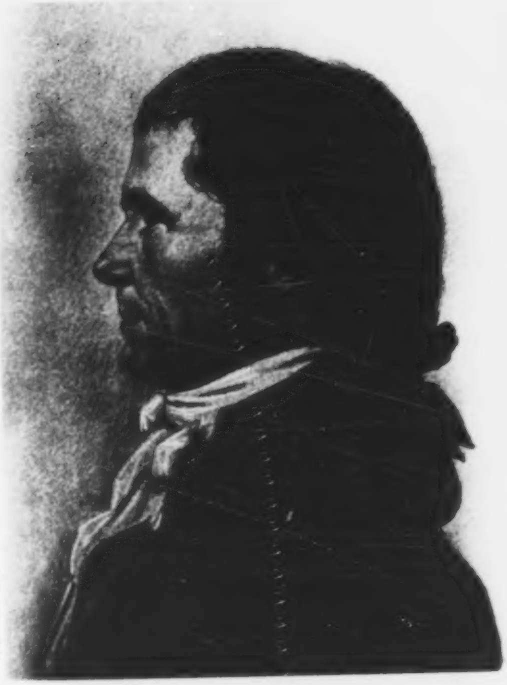
JUDICIAL REVIEW

The U.S. Constitution sets up three branches of government—executive, legislative, and judicial. So that no one branch gets too much power, the Constitution calls for a system of checks and balances. One of the checks used by the judicial branch is *judicial review*—the power of a court to rule on the constitutionality of laws passed by Congress or on acts of a government official. However, judicial review is not written into the Constitution. It was first expressed by Chief Justice John Marshall in the 1803 case of *Marbury v. Madison*. Marshall's decision in this case held that the Constitution was the supreme law of the land, and that, based on this fact, the Supreme Court could declare a law of Congress unconstitutional and therefore void. The Court also extended the practice of judicial review to state statutes, thus giving federal courts the authority to ensure the rights of all citizens and the federal government.

Supreme Court justices disagree about how the Court should use its power of judicial review. Some believe that the Court should use *judicial restraint*—rarely overturning court decisions or laws enacted by popularly elected representatives in Congress and state legislatures. Supporters of judicial restraint argue that the courts should not initiate drastic changes in public policy and impose their political views on the nation. Other justices believe that at times the Court should exercise *judicial activism* to overturn laws and previous decisions. They say that the judiciary should play a role in shaping public policy just as the executive and legislative branches do. They believe that there are some cases in which circumstances do not allow any other course but for the court to order changes in policy. Some experts argue that *Roe v. Wade*, which struck down state laws restricting abortion, is an example of judicial activism by the Supreme Court.



Library of Congress

The concept of judicial review—the power to rule on the constitutionality of laws or actions by government officials—was developed by Chief Justice John Marshall in the Court's 1803 case of *Marbury v. Madison*. The Court's decision opened the way for it to play a role in setting public policy in the United States.

ABORTION IN THE NINETEENTH CENTURY

In the United States, abortion was legal until the mid-1800s as long as it was done before "quickening," when the woman begins to feel the fetus move. Quickening usually occurs in the fourth month of pregnancy. This policy grew out of English common law, which the United States inherited from its British roots. The nation's first abortion case was decided in 1812 by the Massachusetts Supreme Court. In *Commonwealth v. Bangs*, the court ruled that abortion was legal before fetal movement if the woman gave her consent.

Abortions in the nineteenth century were often dangerous. They sometimes involved poisoning, bloodletting, hot baths, or surgery. Not all abortions were performed by doctors. Some were done by untrained people in private homes with unsafe drugs and potions that were believed to cause abortions.

Most of the first antiabortion laws in the United States were passed to protect women's health by banning poisons and dangerous medicines. The first state to pass such a law was Connecticut, which in 1821 made it illegal to give a woman "quick with child" a poison to make her miscarry. In 1828, New York passed a law that made abortion before quickening illegal, although it was not as serious a crime as abortion after quickening. The New York law also permitted abortion if it was needed to save a woman's life. Although most states did not enact such laws until after 1865, many used the New York statute as a model for their own antiabortion laws.

No one knows how common abortion was in the 1800s. During the nineteenth century, the birthrate dropped from an average of 7 children per woman to 3.56. Some historians believe that this drop was caused by an increase in abortion, although contraception may also have decreased the birthrate. Horatio Storer, a nineteenth-century antiabortionist, estimated in 1868 that excluding miscarriages and stillbirths, about 20 percent of all pregnancies were aborted.

In the mid-1800s, American doctors began to campaign against abortion and untrained abortion practitioners. In 1857, the American Medical Association (AMA) formed the Committee on Criminal Abortion. The committee's report said that abortion was immoral and that the fetus was a living being before quickening. Advances in medical knowledge led AMA doctors to conclude that conception began a continual process that produces a human being when uninterrupted. Therefore, quickening was not a significant step in the development of a fetus. The doctors reasoned that there was no point during a pregnancy when a fetus suddenly became more "alive" than it was the moment before. If the law held that a fetus was a crime victim if an abortion was performed after quickening, then, according to the AMA, a fetus was also a victim if an abortion was performed prior to quickening. Based on this reasoning, the doctors urged the states to make abortion illegal. By 1900, all the states had outlawed abortion, although most made exceptions to save a woman's life.

ABORTION IN THE TWENTIETH CENTURY

It is difficult to say how many illegal abortions were performed after abortion was outlawed. By the late 1960s, estimates ranged from 200,000 to 1.2 million a year, with approximately 250 deaths annually resulting from illegal abortions.

The 1960s was a decade of great social change in the United States. Sexuality was discussed more openly, and an active women's movement began to demand equal rights. Public attitudes toward abortion began to change, and some women claimed that legalized abortion would give them more control over their lives.

Two medical problems arose in the 1960s that also helped to bring the issue of abortion to national attention. One of the incidents involved the tranquilizer thalidomide. Because the drug had not been sufficiently tested, it was not available in the United States. It was, however, being prescribed by doctors in Europe to reduce nervous-

> Ladies in want of a *pleasant* and *safe* remedy for irregularities, obstructions, &c., should use Dr. Miller's Female Monthly Powders. It has been said that these powders will produce miscarriage. Without admitting the truth of this assertion, I must confess that it is the inevitable consequence of their use during the early months of pregnancy. Therefore ladies who desire an increase of family should not use them. If after this caution any lady in a certain situation should use them, she must hold herself responsible for the abortion which will surely follow.
>
> Price $5. Sent by mail to any part of the country.

National Library of Medicine

In the nineteenth century, many newspapers carried advertisements for abortion-producing drugs or abortion services. Although most of these notices did not specifically mention abortion, women at the time knew the nature of the services and treatments offered by reading between the lines.

Phoenix Newspapers, Inc

The publicity surrounding Robert and Sherri Finkbine's decision to obtain an abortion helped bring the issue to the nation's attention. After being unable to get a legal abortion in the United States, the Finkbines went to Sweden, where it was performed.

ness or to help patients sleep. In 1962, newspapers began to report that women who had taken thalidomide in England were giving birth to deformed children.

One American who had used thalidomide was Sherri Finkbine, a television host living in Phoenix, Arizona, with her husband, Robert, and their four children. Robert Finkbine had obtained the drug on a trip to Europe. Finkbine had used the drug after she became pregnant. Because of the chances of birth defects, her doctor recommended an abortion and scheduled it at a local hospital. The weekend before the abortion was to be performed, Finkbine told a friend at a local newspaper about her plans to warn others about the dangers of thalidomide. The story was publicized nationwide. The publicity prompted the hospital to cancel the abortion, fearing that it could face criminal charges because Arizona law only allowed abortions to save women's lives. After an unsuccessful appeal to the Arizona Supreme Court, the Finkbines went to Sweden for an abortion. But their case brought the moral aspects of abortion into the public spotlight and helped stimulate national debate over relaxing abortion laws.

The second medical problem involved an outbreak of German measles in 1964. German measles sometimes caused birth defects in children whose mothers had the disease during pregnancy. Many pregnant women who contracted German measles feared that they would deliver deformed children and thus sought abortions. The outbreak of German measles sparked interest in the abortion issue as some Americans empathized with women who faced the possibility of bearing deformed children because abortion was not an option.

In 1967, the AMA took a new position, allowing exceptions for abortions. Members of the AMA approved a policy opposing abortion except when the life or health of the woman was threatened, the child might be born with serious physical or mental problems, or the pregnancy resulted from rape or incest. In that year, California, North Carolina, and Colorado passed new abortion laws adding exceptions for rape, incest, and fetal deformity. By 1973, thirteen other states had similar laws. In the early 1970s, Alaska, Hawaii, New York, and Washington legalized all abortions performed by a doctor up to a certain point into the pregnancy. The most liberal law was in New York, where abortions were permitted for any reason up to 24 weeks into pregnancy. According to the Centers for Disease Control, 587,000 women had legal abortions in 1972. Most of these were performed in the four states that had repealed their restrictive laws. That year, the number of deaths from illegal or self-induced abortions dropped to 34.

It was at this time that two abortion cases were brought to the U.S. Supreme Court. The first case, *Roe v. Wade*, overturned most state abortion laws. In a companion case, *Doe v. Bolton*, the Court overturned Georgia's abortion statute, relying on its decision in *Roe v. Wade*.

ROE V. WADE

Roe v. Wade was the landmark case that established a framework for determining when and if states could regulate abortions. The Court ruled that during the first three months of pregnancy, the abortion decision must be left to a woman and her doctor.

The case involved 21-year-old Norma McCorvey, an unmarried waitress, who became pregnant in August 1969. McCorvey said that she had been raped and that she wanted an abortion. She lived in Texas, where an 1857 law prohibited abortion except to save a woman's life. Rape was not an exception under Texas law. In March 1970, McCorvey filed a lawsuit in Dallas under the name of "Jane Roe." She wanted the court to block local district attorney Henry Wade from enforcing the abortion law, which she claimed was unconstitutional. The judges denied her request, and the case was appealed to the U.S. Supreme Court. Before the Court reached its historic decision, Norma McCorvey gave birth to a baby girl, whom she gave up for adoption.

In presenting arguments to the Supreme Court, McCorvey's lawyers said that she wanted to have an abortion "performed by a competent, licensed physician under safe, clinical conditions." However, she was unable to get a legal abortion in Texas because its law did not make an exception for rape. Nor was she able to afford traveling to another state where abortion was legal. Her lawyers believed that the Texas law violated women's right to privacy, which they argued was protected by the First, Fourth, Fifth, Ninth, and Fourteenth amendments.

The U.S. Supreme Court agreed. In a 7-2 vote, the justices overturned the Texas law, as well as most other abortion statutes. Justice Harry Blackmun, who delivered the Court's opinion, wrote that although the Constitution does not mention a right to privacy, several previous Court decisions had recognized such a right. The Court decided that the Fourteenth Amendment's concept of personal liberty included a woman's decision to terminate her pregnancy.

The justices agreed that although a woman's right to privacy permitted abortions, the state at some point had an interest in protecting the health of the woman and "potential human life." Thus, in its decision, the Supreme Court divided a normal pregnancy into three-month stages called trimesters. The Court decided that during the first three months of

Jane Roe Women's Center

Norma McCorvey was "Jane Roe" in the landmark *Roe v. Wade* decision. McCorvey was twenty-one and unmarried when she became pregnant. She said that she was raped but was unable to get a legal abortion in Texas, where she lived. McCorvey argued that the law violated her rights of personal privacy and of due process by denying her access to a safe abortion performed by a skilled physician.

SHAME
KEEP ABORTION LEGAL
KEEP ABORTION LEGAL
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Close Up Foundation/Renee Bouchard

In 1973, the Supreme Court ruled that a woman's right to an abortion was guaranteed by the U.S. Constitution. Since then, abortion has become an emotionally charged issue with battle lines drawn between those who want the decision overturned and those who believe that the Court's decision was correct and should not be changed.

pregnancy, the decision to abort should be made by the woman and her doctor. The state cannot prohibit abortions during this stage. However, during the second three-month period, the state's interest in protecting the woman's health comes into play. Although a state cannot outlaw abortion during these months, it can regulate abortion procedures to protect the health of women. In the final three months of pregnancy, the state has an interest in protecting both the woman and the "potentiality of human life." States may regulate or even ban abortions during these months, unless the life or health of the woman is threatened.

PUBLIC DEBATE CONTINUES

After the Supreme Court announced its decision in *Roe v. Wade*, thousands of Americans wrote to the justices about the case. In fact, so many letters praising or criticizing the decision were coming in that huge boxes for each justice were set up in a special sorting area in the basement of the Supreme Court building.

Abortion Opponents. Antiabortion activists soon began to campaign for the Court to overturn *Roe v. Wade*. In June 1973, a group of American Catholics, including some bishops, formed the National Right to Life Committee to end legal abortion. (The committee now includes non-Catholic members as well.) Other groups were also formed to oppose abortion. Catholics United for Life developed "sidewalk counseling," where antiabortion activists try to convince women entering abortion clinics to change their minds. The group Birthright created crisis pregnancy centers nationwide to offer women alternatives to abortion. Other organizations opposed to abortion include the Eagle Forum, Concerned Women of America, and the Moral Majority. In 1987, antiabortion activist Terry Randall formed a new group, Operation Rescue, whose members block abortion clinics until police arrest them and carry them away. And a few abortion opponents have set fire to or bombed abortion clinics.

Many antiabortion activists believe that life begins at conception. They claim that abortion is murder of an unborn child. Opponents of abortion think that the fetus is a human who is entitled to all the rights guaranteed in the Constitution, including the Fifth and Fourteenth amendments' guarantee that no "person" shall be deprived "of life, liberty, or property, without due process of law." Others argue that the Supreme Court overstepped its role in *Roe v. Wade* by creating a new liberty, the right to privacy in the decision to have an abortion, which is not mentioned in the Constitution. They also claim that the Court created public policy in *Roe v. Wade* and that policy creation is the role of Congress and state legislatures, not the Supreme Court.

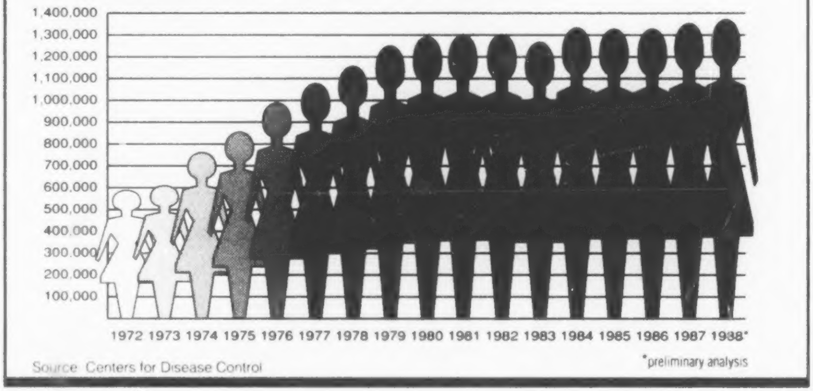
In addition to lobbying the Court to reverse what they see as a flawed decision in *Roe v. Wade*, abortion opponents have campaigned for state laws to limit or restrict abortions. Examples of such laws include requirements that abortions be performed in hospitals, that unwed minors receive parental permission, that wives receive their husbands' consent, that women receive information about the development of a fetus, that doctors try to save the lives of aborted fetuses, and that abortions be prohibited in the last three months of pregnancy. Antiabortion advocates have also urged Congress to pass a constitutional amendment that would prohibit abortion. A constitutional amendment would then become law, replacing the decision reached in *Roe v. Wade*.

Supporters of Legal Abortion. Other Americans have fought to keep abortion legal by opposing anti-abortion legislation and taking their case to the courts. The first group formed to fight antiabortion laws was the National Association for the Repeal of Abortion Laws. It was founded in 1969 and later became the National Abortion Rights Action League (NARAL). Other organizations that advocate a woman's right to choose to have an abortion include the National Organization for Women (NOW), the Women's Political Caucus, and the Planned Parenthood Foundation. The Reproductive Freedom Project has provided legal services for those who challenge antiabortion laws in court.

Proponents of keeping abortion legal believe that the Supreme Court was correct in guaranteeing women the right to privacy, including the decision to have abortions. They say that this liberty is a fundamental right under the Constitution, and that state governments should be prohibited from interfering in the use of that right. They contend that the decision to end a pregnancy is a private one that should be left solely to the woman, and that women should not be forced to have children that they do not want. They argue that the Court in *Roe* was fulfilling its constitutional role of protecting individual rights, which involves making changes in public policy.

Advocates of keeping abortion legal fear what would happen to the 1.5 million American women who have abortions each year if abortion were again made illegal. They claim that making abortion illegal would not end abortions but would force women to seek unsafe abortions. They believe that some of these women would die while others would suffer from health problems caused by botched abortions. Supporters of abortion rights claim that outlawing abortion would thus pose a threat to the health of women, the exact opposite of the original purpose of the nation's first anti-abortion laws. They also argue that even if some states were to keep abortion legal, some women—especially the poor and uneducated living in states where abortion was illegal—would still be unable to obtain an abortion if they had to travel to another state to do so. Additionally, some contend that

NUMBER OF LEGAL ABORTIONS IN THE UNITED STATES SINCE 1972



Source: Centers for Disease Control

*preliminary analysis

these women are the least likely to be able to adequately raise their children because their lack of education and money could lead to malnutrition, untreated health problems, and child neglect.

Fearing any erosion in the right to abortion, many Americans have opposed all restrictions on abortion. Some of these restrictions have been reviewed by state courts and the Supreme Court.

COURT DECISIONS SINCE ROE V. WADE

After the 1973 decision, most states changed their abortion laws because they were unconstitutional according to the *Roe v. Wade* guidelines. Some of the new laws were challenged in court. Several have reached the Supreme Court, giving the justices an opportunity to further define abortion rights.

Planned Parenthood v. Danforth. The first major abortion decision following *Roe v. Wade* was *Planned Parenthood v. Danforth* in 1976. In this case, the Supreme Court reviewed Missouri's abortion law, which included restrictions not discussed in *Roe* such as medical guidelines, consent requirements, and record keeping. Three days after the governor signed the law, Planned Parenthood and two doctors filed a lawsuit against the state, arguing that the requirements intruded on a woman's right to choose an abortion and interfered with doctors' rights. Planned Parenthood wanted to prevent Missouri Attorney General John Danforth from enforcing the law. After a lower court refused to overturn most of the provisions, the case was appealed to the U.S. Supreme Court.

The Supreme Court upheld parts of Missouri's abortion law while declaring other parts unconstitutional. The majority opinion, written by Justice Blackmun, said that states may require doctors to inform women seeking abortions about alternatives to abortion and the dangers involved in the procedure and then to obtain her written consent. The Court said that such a requirement must be related to the woman's health and not be so overbearing as to unduly interfere with the doctor-patient relationship. The type of information required may vary according to the trimester of the woman's pregnancy. The decision also allowed states to require doctors to report all abortions as long as the records were confidential, not overbearing, and related to women's health. The Court said that prohibiting abortion of viable fetuses—those capable of living outside of the womb—was permitted under the *Roe v. Wade* guidelines, except when such an abortion is necessary to save the life or health of the woman.

However, the Court decided in *Planned Parenthood v. Danforth* that spousal and parental consent requirements were unconstitutional. The Missouri law had banned abortions without the consent of the woman's partner or, for an unwed girl under eighteen, the consent of one of her parents. There were exceptions when the woman's life was threatened by the pregnancy. The Court reasoned that states could not give parents or partners absolute veto powers over abortions when the state itself could not prohibit abortions during the first trimester. The Supreme Court also declared unconstitutional a provision that prohibited doctors from using the saline amniocentesis method to abort fetuses after the first twelve weeks of pregnancy. The majority determined that the regulation did not meet *Roe v. Wade's* requirement that such restrictions be used only to protect the health of women. The Court believed that the restriction was meant to prohibit most abortions after the first trimester. According to *Roe*, the state cannot prohibit abortion until the third trimester. The Missouri law also required doctors to use available means and medical skills to save the lives of fetuses. A majority of the Court ruled that this provision was too broad and that it violated the guidelines in *Roe v. Wade* because it included fetuses that were not yet viable.

Medicaid-Financed Abortions. In 1977, the Supreme Court upheld the rights of states to refuse to pay for abortions for poor women when the procedures were not medically necessary. This policy arose from two cases, both of which challenged state Medicaid programs. Medicaid is a government health care program for the poor. It was established by a federal law, Title XIX of the Social Security Act, but each state sets its own standards for determining the

CASE STUDY

AP/Wide World Photos

Modern technology allows doctors to save the lives of premature babies more frequently than was possible when the Court decided *Roe v. Wade* in 1973. The point of viability, when the fetus can live outside the womb, has moved slowly to an earlier point in pregnancy. Because the Court allowed states to ban abortions after viability, some experts wonder if states will one day be able to outlaw abortions that are now legal because technology will have made viability possible earlier in pregnancy.

extent of medical help available. Both the federal government and state governments pay the costs of Medicaid.

In *Beal v. Doe,* the Supreme Court looked at Pennsylvania's Medicaid plan in regard to abortions. Under the plan, the state only paid for abortions to preserve a woman's life or health. The lawsuit was filed by a woman known in the Court's records as "Ann Doe," who was eligible for Medicaid under the state's program. She wanted an abortion, but the state refused to pay for it. She claimed that the state's restriction violated Title XIX of the Social Security Act. The federal Medicaid program covers five areas of treatment, including pregnancy-related services. Doe believed that the state's restriction denied her equal protection of the laws under the Fourteenth Amendment because the state would pay for childbirth but not abortions. She sued the state and its secretary of public welfare, Frank S. Beal, to obtain an abortion. The district court sided with Beal, but this decision was overturned by the U.S. Court of Appeals. Beal then appealed to the Supreme Court, which ruled that there was nothing in the federal Medicaid law that required states to pay for unnecessary medical services, such as abortion on request when the health of the woman is not at risk.

That same year the Supreme Court ruled on Connecticut's Medicaid plan in *Maher v. Roe.* This case was brought to the Court by two poor women whose requests for elective abortions were denied by the Connecticut Department of Social Services. Connecticut's Medicaid plan funded all childbirth costs for women on welfare but only paid for abortions that were necessary to preserve a woman's life or health. The women sued Edward Maher, the state official in charge of Medicaid, claiming that the state's Medicaid plan violated the Social Security Act and their constitutional rights to equal protection and due process.

Although the Court ruled in *Beal v. Doe* on whether a federal law required states to use Medicaid funds for abortions, the issue in *Maher v. Roe* was whether the Constitution required such financing by the states. The Court ruled that states could decide to pay for childbirth and not pay for abortions. The justices said that the Fourteenth Amendment's guarantee of "equal protection of the laws" was not violated by a state's decision to favor childbirth over abortion. The majority opinion said that state funds were limited, and each state could decide how to spend them. The Court also ruled that Medicaid did not violate women's right to end their pregnancies.

WHO HAS ABORTIONS?

Percentage distribution of women having abortions in 1987 aged 15-44

Characteristic	Percentage
Age	
Under 15	0.9
15-17	10.8
18-19	13.8
20-24	33.1
25-29	22.3
30-34	11.7
35-39	5.7
Over 40	1.7
Race	
White	68.6
Nonwhite	31.4
Religion	
Protestant	41.9
Catholic	31.5
Jewish	1.4
Other	2.9
None	22.2
Born again/evangelical	15.8
Not born again	84.2
School enrollment	
Enrolled	31.1
Not enrolled	68.9
Marital status	
Married	18.5
Separated	6.4
Divorced	11.2
Widow	0.6
Never-married	63.3
Employment status	
Employed	68.1
Not employed	31.9
Family income	
Less than $11,000	33.1
$11,000-$24,999	33.8
More than $25,000	33.1
Medicaid status	
Covered	23.8
Not covered	76.2
Childbearing intention	
More children	69.7
No more	30.3
Residence status	
Metropolitan area	85.7
Nonmetropolitan area	14.3
Weeks pregnant	
Less than 8	50.4
9-10	26.0
11-12	12.4
13-15	6.2
16-20	4.2
More than 21	0.8
Previous live births	
0	53.6
1	22.8
2	15.5
3	5.5
4 or more	2.6

Sources: The Alan Guttmacher Institute and the Centers for Disease Control

Calautti v. Franklin. In 1979, the Supreme Court struck down a Pennsylvania law that required doctors to use abortion procedures most likely to save the lives of fetuses that "may be viable." Under the law's provisions, a doctor who did not try to save a potentially viable fetus could face criminal charges. The law was challenged by Dr. John Franklin, the medical director of a Pennsylvania Planned Parenthood chapter. When a lower court ruled in Franklin's favor, Pennsylvania Secretary of Welfare Aldo Calautti appealed the decision to the U.S. Supreme Court.

In *Calautti v. Franklin*, the Court ruled that fetal protection laws could only apply to fetuses that could survive outside the womb, not ones that "may" be viable. The majority opinion noted that determining viability is difficult and should be left to doctors.

Bellotti v. Baird. The Supreme Court returned to the question of parental consent again in 1979. A Massachusetts law required unmarried girls under age eighteen to get parental permission for abortions. If one of the parents refused to consent, the girl could ask a state judge to allow the abortion. The judge was to decide in the "best interests" of the girl. The suit was brought by William Baird, an abortion clinic director, against Massachusetts Attorney General Francis X. Bellotti. Baird was joined in the law suit by a girl known as "Mary Moe." Moe was an unmarried pregnant minor who lived with her parents. She claimed that because she was capable of making a mature decision about abortion, her parents did not need to be involved in the decision.

In *Bellotti v. Baird*, the Supreme Court said the law was unconstitutional and that the Constitution protected unwed minors. The law was judged unconstitutional because it required parental consent before going to a judge in every case, even if the minor was "mature." The Court said that girls must be able to go directly to a judge for permission. Justice Lewis Powell wrote for the majority: "If she satisfies the court that she is mature and well-informed enough to decide on her own, the court must authorize her to act." In addition, if the girl was not judged to be mature, the state judge could still authorize an abortion if he or she thought it would be in the girl's best interest.

Harris v. McRae. The 1980 decision of *Harris v. McRae* extended earlier decisions on Medicaid funding. Previously, the Supreme Court had ruled that state governments did not have to pay for abortions under Medicaid. In *Harris v. McRae*, the Court said that the federal government was not required to pay for abortions either. The case arose because of the Hyde amendment, a law prohibiting the use of federal Medicaid money for abortions except when the woman's life was endangered. In this case, the defendant, Cora McRae, was a low-income woman who was not eligible for an abortion under the Hyde amendment. She claimed that the law violated her First and Fifth amendment rights. Although a lower court decided in her favor, Secretary of Health and Human Services Patricia Harris appealed the case to the U.S. Supreme Court.

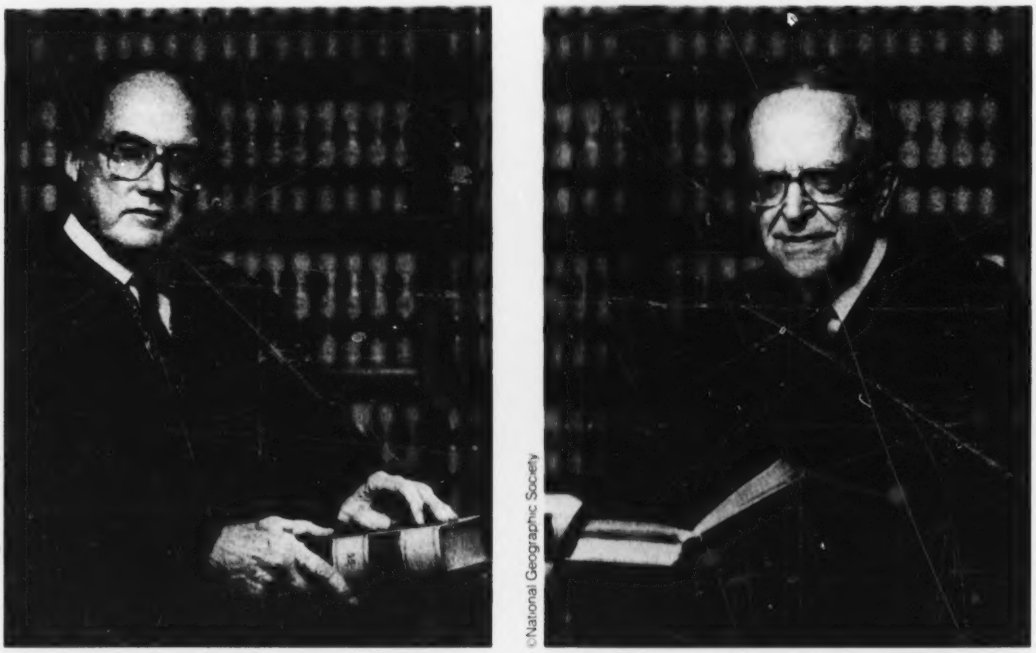
The Supreme Court decided that the Hyde amendment was constitutional and that neither the federal government nor the states were required to pay for abortions. Of course, they could fund abortions if they wanted to. The Court held that denying abortion funding to the poor did not deny them their right to choose. They could still get abortions using nongovernmental sources of money. The Court also rejected McRae's argument that the Hyde amendment was unconstitutional because it violated the First Amendment's guarantees separating church and state and banning the establishment of religion. The Court said that the Hyde amendment was not unconstitutional just because it agreed with some religions' teachings on abortion.

Akron v. Akron Center for Reproductive Health. In 1983, the Supreme Court evaluated Akron, Ohio's abortion ordinances in *Akron v. Akron Center for Reproductive Health*. Among the provisions struck down were requirements that all second trimester abortions be done in a hospital, that doctors wait twenty-four hours after the woman has signed a consent form before performing an abortion, and that the doctor make certain statements to the woman to ensure that her consent was "informed."

Doctors were required to tell the woman about the status of her pregnancy, the development of the fetus, the date when the fetus could live on its own, the physical and emotional complications that could result from abortion, the risks of pregnancy, abortion techniques, and agencies with information on birth control, adoption, and childbirth. Three abortion clinics affiliated with the Akron Center for Reproductive Health challenged this law in court. After mixed rulings in lower courts, the city of Akron asked the U.S. Supreme Court to review the case.

Justice Powell, writing for the majority, reaffirmed the *Roe v. Wade* decision. He said that the hospitalization requirement imposed an unnecessary burden on women's access to abortion. He noted that many second trimester abortions can be performed safely and less expensively in outpatient clinics. The Court found that the waiting period was arbitrary and inflexible and was not related to the woman's safety. The majority also held that the detailed consent information required by the law was meant to persuade a woman not to have an abortion. The justices argued that the requirements interfered with a woman's right to choose an abortion and with the doctor-patient relationship.

Thornburgh v. American College of Obstetricians and Gynecologists. In 1986, the Supreme Court struck down a similar law in Pennsylvania. In *Thornburgh v. American College of Obstetricians and Gyne-*



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"The rigid *Roe* framework is hardly consistent with the notion of a Constitutional case."
Chief Justice William Rehnquist (left)

"I fear for the future."
Justice Harry Blackmun (right)

cologists, the Court said that although Pennsylvania's informed consent requirements were less objectionable than Akron's, they were still unconstitutional because they too were "designed not to inform the woman's consent but rather to persuade her to withhold it altogether." The justices ruled that requiring the presentation of specific information to all women, regardless of their particular situations, infringed upon their doctors' judgments. The Court also rejected a provision requiring doctors to supply the state with reports on all abortions because these reports were open to public inspection. The information collected included the woman's address, age, race, marital status, number of previous pregnancies, the date of her last menstrual period, and the method of paying for the abortion. The Court ruled that these reports violated a woman's right to privacy and might persuade some to forgo abortions for fear that they would be made public. The justices also declared unconstitutional a requirement in the Pennsylvania law calling for two doctors to be present during late-term abortions when the fetus is possibly viable. Finally, the law mandated the use of abortion methods most likely to save the fetus, unless it would put the woman's health at "significantly greater risk." Again, the majority of the Court decided that these guidelines were unlawful because they might indeed put women at greater risk.

The 5-4 majority in this case reaffirmed the *Roe v. Wade* decision, although antiabortion activists were encouraged, believing that the slim majority indicated the possibility that the Court would eventually overturn the 1973 ruling.

WEBSTER V. REPRODUCTIVE HEALTH SERVICES

In 1989, when the U.S. Supreme Court heard *Webster v. Reproductive Health Services*, both opponents and proponents of legalized abortion believed that the justices could use it to overturn *Roe v. Wade*. The case drew a lot of media attention, and many abortion-rights and antiabortion groups stepped up campaigns to win the public, the media, and the justices to their side. The Court received 78 friend-of-the-court briefs (briefs submitted to the Supreme Court by interested people and groups not directly involved in the case) arguing for or against the Missouri law that was being challenged in *Webster*. Never before had so many briefs been submitted for a single case. One of these briefs was filed by the U.S. Justice Department, which urged the Supreme Court to overturn *Roe v. Wade*.

Antiabortion backers were hopeful that the Court would be persuaded by the Justice Department and others. They noted that the composition of the Supreme Court had changed dramatically in recent years and that there might now be five justices who would vote to strike down *Roe v. Wade*. Four justices were known to still support the 1973 ruling. They were Harry A. Blackmun, the author of *Roe v. Wade's* majority opinion, William Brennan, Thurgood Marshall, and John Paul Stevens. On the other side were William Rehnquist, now the Chief Justice, and Byron White. Both had opposed the ruling in 1973. In 1986, White wrote a dissent in *Thornburgh* in which he concluded that the *Roe* decision had been based on a faulty interpretation of the Constitution and that it should be overturned. Rehnquist joined that dissenting opinion. In 1989, the Court had two new justices, Antonin Scalia and Anthony Kennedy. Neither had yet voted on an abortion case, but both were believed to favor reversing *Roe v. Wade*.

The question mark seemed to be the vote of the Court's only female justice, Sandra Day O'Connor. She would probably provide the fifth and deciding vote. In *Akron*, she had argued for legalizing regulations that do not "unduly burden" a woman's right to an abortion. She said that the Court's trimester framework was becoming unworkable because technology was closing the gap between the time during which abortions were safe and the point of fetal viability. She said that the system developed in 1973 was on a "collision course with itself." Many people believed that she would vote to keep the Missouri law and possibly to overturn *Roe v. Wade*.

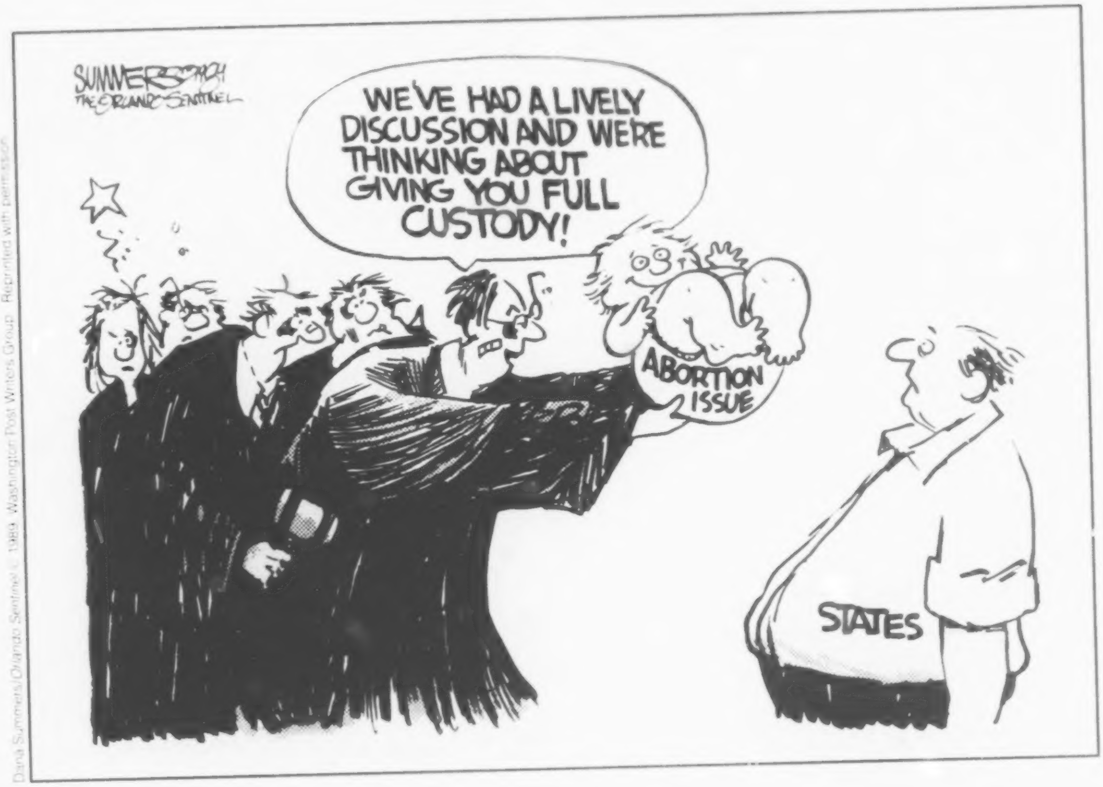
Webster v. Reproductive Health Services was the third Supreme Court case challenging Missouri abortion laws. After having parts of its previous laws struck down by the Court, the state passed a new law in 1986. The law's preamble stated that "the life of each human being begins at conception." The statute:

- barred public employees from performing or assisting abortions;
- prohibited abortions in public hospitals unless they were necessary to save a woman's life; and
- required medical tests on fetuses thought to be at least twenty weeks old to determine their viability.

Webster v. Reproductive Health Services was brought by Missouri abortion-rights groups and a nonprofit abortion clinic to prevent state Attorney General William Webster from enforcing the law. After lower courts declared many of the provisions unconstitutional, Webster appealed their judgments to the U.S. Supreme Court.

The Court voted 5-4 to uphold the Missouri law, although it did not overturn *Roe v. Wade*. The Court said that the law's preamble was not legally binding, so the justices did not rule on the declaration. The restrictions on public funds, workers, and facilities were left untouched. As in earlier cases, the Supreme Court ruled that the U.S. Constitution allowed states to favor childbirth over abortion. Chief Justice Rehnquist wrote the Court's opinion. He said that the viability tests were not intended to stop abortion prior to viability. Therefore, there was no reason to overturn *Roe v. Wade*. However, the majority opinion attacked the trimester analysis of *Roe v. Wade*. Rehnquist wrote, "The rigid *Roe* framework is hardly consistent with the notion of a Constitutional case." He also argued that "we do not see why the state's interest in protecting human life should come into existence only at the point of [fetal] viability, and that there should therefore be a rigid line allowing state regulation [of abortion] after viability but prohibiting it before viability. . . ."

The Chief Justice was joined in his opinion by Associate Justices White and Kennedy. Justice Scalia voted with the majority but wrote an opinion favoring the abandonment of *Roe v. Wade* and returning abortion regulation to the states. Justice O'Connor also voted with the majority but wrote a separate opinion arguing that the Missouri law was legal based upon the Court's previous abortion decisions. Justice Blackmun, a dissenter, wrote, "I fear for the future." He predicted that the Court might abandon its previous abortion rulings as early as the next term.


SUMMERS
THE ORLANDO SENTINEL
WE'VE HAD A LIVELY DISCUSSION AND WE'RE THINKING ABOUT GIVING YOU FULL CUSTODY!
ABORTION ISSUE
STATES

Dana Summers/*Orlando Sentinel* © 1989. Washington Post Writers Group. Reprinted with permission.

AFTER WEBSTER

The impact of the *Webster* decision in Missouri was minimal. In 1989, there were slightly more abortions in Missouri than in 1988. The ban on public services for abortions did not affect private offices and clinics, where most abortions in Missouri and nationwide were performed. The testing requirement affected a small number of women. Fewer than one percent of abortions involved fetuses more than twenty weeks old.

However, the decision gave the states greater leeway to restrict abortions. Within two years of the decision, more than 600 abortion bills were introduced in state legislatures, although only ten were enacted. Some of these laws appeared to be direct challenges to the *Roe* decision.

The strictest law was passed by Louisiana in 1991. That statute outlaws all abortion except to save the woman's life or when rape and incest victims meet certain conditions. For example, victims of rape and incest would have to file police reports to be eligible for an abortion. A rape victim would have to report the crime within seven days. Within five days, she has to be examined by a doctor other than the one who would do the abortion to determine if she was pregnant before the rape. The law allows no exceptions for pregnancies that threaten the woman's health. Doctors who perform abortions that are illegal under the law could be sentenced to up to ten years in prison and fined up to $100,000.

The state of Utah passed a law almost as restrictive as Louisiana's. Utah's law would ban all abortions except when the woman's health is in grave danger, if the fetus suffers from severe defects, or in cases of rape or incest when the abortion is performed no later than twenty weeks into the pregnancy.

A law passed in the U.S. territory of Guam allows abortions only when the pregnancy poses a grave risk to a woman's health or endangers her life. Under this law, those who perform, assist, solicit, or have abortions could face punishment. Anyone who solicits a woman to have an abortion could be charged with a misdemeanor.

Pennsylvania passed a law that requires notification of the husband for married women, a twenty-four-hour waiting period, and counseling about fetal development. A U.S. appeals court upheld the waiting period and counseling provisions but struck down the section requiring married women to notify their husbands prior to the abortion. Pennsylvania appealed the spousal consent decision to the U.S. Supreme Court in the case of *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992).

KEEPING ROE

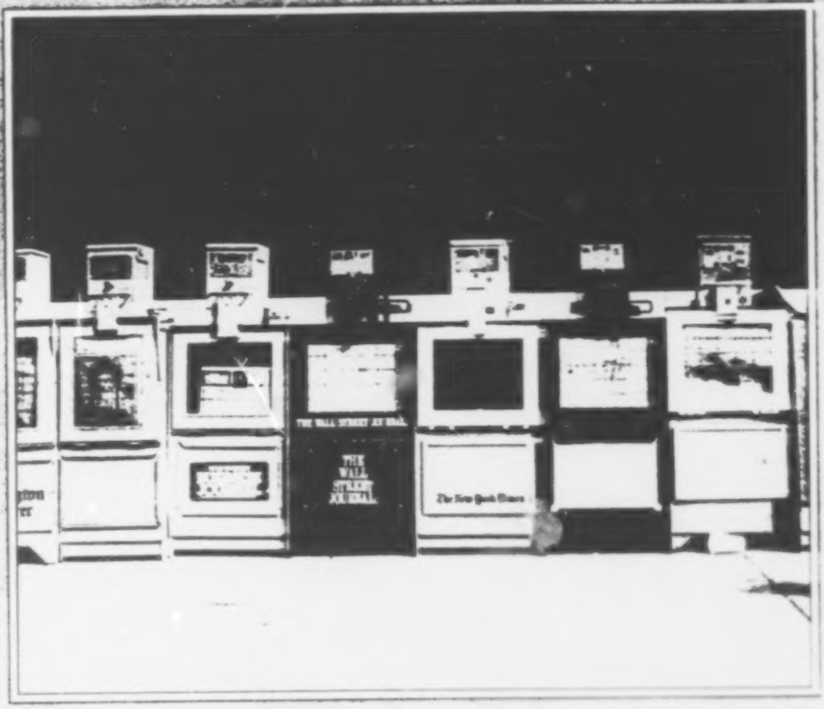
The Supreme Court did not overrule *Roe* in the Pennsylvania case, to the surprise of activists on both sides of the abortion issue. The addition of two new conservative justices, David Souter and Clarence Thomas, to the Court had seemed to make the demise of *Roe* a foregone conclusion.

Nonetheless, the Court upheld *Roe* in a 5-4 decision, but it abandoned *Roe's* trimester framework. Rather, the Court held that states were free to regulate abortions as long as they did not place an "undue burden" on a woman's right to choose an abortion. The Court defined "undue burden" as placing a "substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." Under that standard, the Court upheld the counseling and waiting-period provisions of the Pennsylvania law, but struck down the requirement that married women must notify their husbands.

The dissenting justices argued that the Court's "undue burden" standard was vague, thus offering states no real guidance and ensuring future law suits. The decision was also activist, they maintained, because it guaranteed that the Court would be involved in shaping public policy on abortion for years to come—a matter they believed was best left to the states.

CHAPTER 6

THE MEDIA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CHAPTER 6

THE MEDIA

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The First Amendment protects freedom of the press, thus giving the media a special status in American government. Some people claim that the media have become another branch of government, rivaling the three official branches in political power. Indeed, the media exert tremendous influence in their daily reporting and, by deciding what stories to cover, help set the national agenda. Moreover, Thomas Jefferson said that, if given a choice between a government without a free press or a free press without a government, he would choose the latter. The articles in this chapter examine the role the media play in a democratic society.

Marvin Kalb, a former network news correspondent and the director of the Joan Shorenstein Barone Center on the Press, Politics, and Public Policy at the John F. Kennedy School of Government at Harvard University, believes that the "free press is the guarantor of a free society." Kalb points out that the press is the only private business to receive special protection in the Constitution, largely because of its crucial role as a watchdog on government.

Local newspapers are especially important to their communities in times of crisis. Robert C. Maynard and Eric Newton, the editor and managing editor of *The Oakland Tribune*, relate how their newspaper helped the Oakland community respond to two major disasters, an earthquake that caused a freeway to collapse and a fire that spread throughout the Oakland hills. In such times, they say, a newspaper is not just a reporter of information, but also a public servant.

The relationship between the media and the government can often be antagonistic. Jody Powell, former press secretary to President Jimmy Carter, can see the issue from both perspectives because he worked as a journalist after he left the White House. Part of the problem, Powell explains, is that no one, including government officials, likes to see his or her mistakes broadcast to a national audience. Powell does not believe the media are biased, but he does think that reporters often cut corners to make a story more interesting than the facts justify.

Editorial cartoonists use satire and humor to inform public debate, rather than facts alone. Bob Gorrell, a nationally syndicated cartoonist, argues that the visual power of cartoons is often more effective than "long-winded" editorials. But because of their exaggerated nature, editorial cartoons are often seen as unfair. Indeed, one comic strip artist jokes that editorial cartoonists operate out of a "deep hatred for mankind." Still, Gorrell believes that editorial cartoons are important because they motivate the politically lazy.

One of the most persistent complaints against the media is that they are biased. Joseph C. Goulden, a director of Accuracy in Media, a media watchdog group, cites studies indicating that the media have a liberal bias. He points out that the press is the only institution that enjoys constitutional immunity from regulation, which should mean that the press also imposes a commensurate responsibility upon itself to be fair. Andrew L. Shapiro, a reporter for *The Nation*, agrees that the media are biased—but toward conservatives. He cites studies supporting the media's bias in favor of those in society who have power. Shapiro argues that advertising plays a critical role in the media's conservative bias.

When national security is at stake, freedom of the press is sometimes subject to limits. During wartime especially, the press's role of informing the public conflicts with military officials' need to keep their activities secret. Such secrecy can protect soldiers' lives, but it also can cover up generals' mistakes. This chapter's case study examines freedom of the press during wartime by exploring limits placed on the press by military commanders during the Persian Gulf War.

Today, with wars covered live on television, the media have much more power than they did in 1791 when the First Amendment was ratified. Yet their role is essentially the same: to check the power of the government by keeping citizens informed. Although some argue the media are too powerful, in Marvin Kalb's article veteran journalist David Brinkley points out: "Numerous politicians have seized absolute power and muzzled the press. Never in history has the press seized absolute power and muzzled the politicians."

Close Up Foundation/Renée Bouchard

Martha Stewart

Marvin Kalb

is the director of the Joan Shorenstein Barone Center on the Press, Politics, and Public Policy at the John F. Kennedy School of Government, Harvard University. Over a thirty-year career, he served as a correspondent for CBS News and NBC News, as well as moderator for "Meet the Press."

THE VALUE OF A FREE PRESS

The public should know the value and importance of a free press. Much will flow from that simple realization. It is my view that a free press is the guarantor of a free society. One is inescapably linked to the other.

Thomas Jefferson, reflecting one day (when he was not president of the United States) on an oddly formulated question about whether he'd prefer a government without newspapers, or newspapers without a government, chose the latter, assuming (I think, rightly) that a government without newspapers would be a cruel, repressive, and unwelcome power, unable to be checked by any other countervailing force, pressure, or influence. Jefferson, and many others of his exceptional generation of visionary politicians, believed that the press was the best means of protecting the governed, the people, from the exercise of arbitrary power by the governor, which, in their view, was always a possibility.

Jefferson never thought of the press as a flawless institution. Indeed, when he was president, he regularly denounced the press, especially the opposition press.

But, with all its blemishes, its occasional lapses into bad judgment and taste, its mistakes, its capricious intrusion into the private lives of public officials, the press was seen as crucially important, enough to persuade the founders that, though it was a business, in a sense like any other pursuing profits, it deserved special protection. In no less a document than the First Amendment of the U.S. Constitution, the principle of a free press, linked to free speech, was drafted and included, the only business so coddled. Over the years the Supreme Court has breathed legal life into this concept until today a free press is often heralded as the guardian of all of the other freedoms enjoyed by the American people, and others around the world.

And yet there is the question: would the First Amendment, if presented to the people of the United States today, be approved and ratified? Polls strongly suggest that the answer is no—that there is a growing disillusionment with what suddenly seems to be the unchecked power of the press. What an extraordinary irony! It was the press, after all, that was supposed to keep an eye on the unchecked power of the president, the Congress, and the courts. The late Alan Barth of *The Washington Post* defined the press as a "watchdog"—a barking watchdog at that—always on guard against the possibility of unfair and unjust encroachments by the government. His view was that, on occasion, the watchdog might mistake his mission and bark at an innocent mailman, but better, in his view, to bark mistakenly at the mailman than not to bark at the intrusion of a thief.

This is a sophisticated argument, often ignored these days, as perceptions of the press change. As its power has grown, there are more questions about its proper function in a free society. Lost in the argument is the original purpose of a free press.

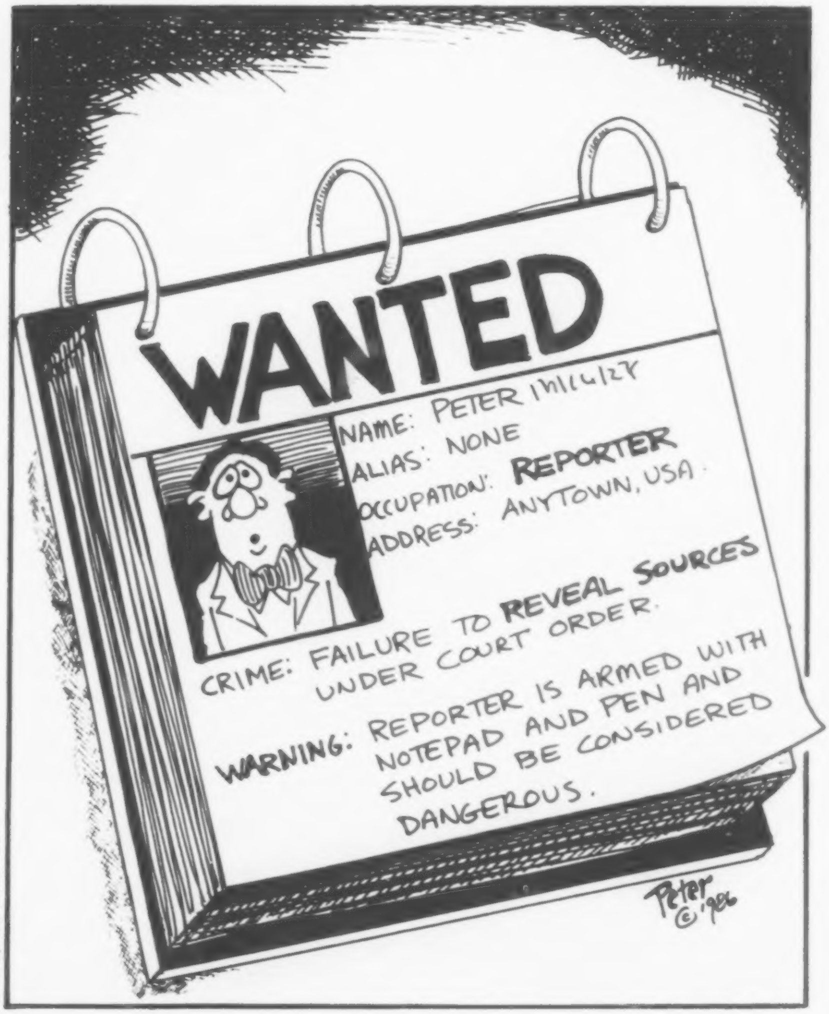
What's happened?

For one thing, with the expansion of their technological reach, the press and television—the media, as they're called these days—have become 800-pound gorillas, dominating the political process and playing an increasingly commanding role in our social and cultural lives. Television shapes the environment in which we live. The lens is everywhere, from the bedrooms of presidential hopefuls to the classrooms, boardrooms, and staterooms. Reporters always seem to be asking outrageous questions, poking into everyone's privacy—even a prospective justice of the U.S. Supreme Court. Can any American ever forget the testimony we heard and the pictures we saw during Clarence Thomas's confirmation hearings? Or the "feeding frenzy" that surrounded Governor Bill Clinton's run for the presidency in 1992 once a supermarket tabloid ran sensationalist charges about his sex life?

The world is now wired. Whereas even, say, at the turn of the century, a war in Asia would not touch or affect the American people for days or weeks, now a similar war is on the Cable News Network (CNN), often "live." The president is called upon to respond "live." The United States, the sole surviving superpower in the world, is immediately engaged. There is no escape.

In this kind of world, with hair-trigger turns of fortune lying just around the bend, does it still make sense for the press to be so . . . autonomous, independent, sassy? Should there not be some rethinking, even revision, of the First Amendment to "impose" some responsibility upon the press? After all, not even Thomas Jefferson could have imagined CNN.

My answer, open to debate, is that while the press's role and responsibility have of course changed in the past 200 or so years, its principal function has remained the same.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It is still the only check outside of government that can "blow the whistle" on the government. The Constitution established a system of checks and balances involving primarily the three branches of government—the executive, the legislative, and the judicial. But the Constitution wisely added an additional check, outside of this troika of power, to keep a close watch on how the system of checks and balances is working. That was the press, a free and unfettered press.

Think for a moment about how the system would work without a free press. How would a presidential election be covered? How would a war be covered? How would the American people have known about Watergate without a Woodward and Bernstein, both of *The Washington Post?* Indeed, how would the American people know about anything without a free press?

Television anchor David Brinkley once balanced the relative capacity of the press to do in the politician, and the politician to do in the press. He concluded: "Numerous politicians have seized absolute power and muzzled the press. Never in history has the press seized absolute power and muzzled the politicians."

Think.

NEWSPAPERS AND THEIR COMMUNITIES

Oakland Tribune/Angela Pancrazio

Robert C. Maynard

is editor and publisher of The Oakland Tribune. *He is also a nationally syndicated columnist and a commentator on network news programs.*

Oakland Tribune/Ron Riesterer

Eric Newton

is managing editor of The Oakland Tribune. *He supervised the* Tribune's *coverage of the 1989 Oakland earthquake, which won a Pulitzer Prize.*

A newspaper publisher once defined what journalists do. We write, said the late Philip Graham, "a first rough draft of history." We think that is true. We also believe there are times when a newspaper is more to a community or a country than merely a chronicle of yesterday's events. There are times when the free press functions as the glue that holds a community together.

This is especially true when disaster strikes. How the local news media function—or fail to function—in a major community crisis can have a significant impact on many lives. In fact, the news media can make a life-and-death difference.

The world's worst nuclear power accident occurred when reactor No. 4 exploded in April 1986 at Chernobyl in the former Soviet Union. Soviet officials immediately told their people there was nothing to fear.

As radiation showered Pripyat, Chernobyl's bedroom community, officials cynically ordered weddings to go ahead. They feigned indifference to an unfolding disaster of unprecedented proportions. As the toxic cloud began to spread over Europe, officials in Kiev ordered school children to march down main street to show the world all was well.

More than 7,000 people died because Soviet officials said all was well, and because there were no independent media there to expose the lie.

Chernobyl is an example of how the news media can fail their communities in a crisis. It is hardly an isolated example, and not even an extreme one. A shortage of critical reporting during times of crisis has contributed to virtually every great tragedy in modern history—from military holocausts to great famines to awful environmental catastrophes—all carried out in the absence of a free press's scrutiny.

THE PRESS AS PUBLIC SERVANT

There is another way. An independent, fully functioning local press can bring a community together during times of crisis. A newspaper can stay on top of breaking developments, giving citizens the information they need to make day-to-day decisions. A newspaper can help people in the community share their needs and find ways to fulfill them. A newspaper can investigate what went wrong and keep heat on those in authority until changes are made.

The press reporting fully on a disaster is the press at its best as a public servant. We've seen it happen ourselves at *The Oakland Tribune*. Twice.

On October 17, 1989, a major earthquake shook Oakland, California. A double-deck freeway came crashing down upon itself less than a mile from the Tribune Tower where we work. And on October 20, 1991, the worst urban wildfire in California history incinerated more than 3,000 homes in the Oakland hills where we live. Together, the disasters killed nearly 100 people and did billions of dollars' worth of damage.

During the earthquake and the fire, the government, the rescue agencies, and the disaster's victims were absorbed by the ever-changing emergencies. They couldn't keep track of every important thing that was happening. The community needed everything a local paper had to offer—information, support, leadership—and they needed it fast.

Immediately after the earthquake, *Trib* circulation crews sold bundle upon bundle of papers right out of the backs of trucks. News-hungry citizens would line up and buy them before our drivers could put them in the racks. After the fire, we dropped thousands of papers at relief centers where the evacuees were huddled. Again and again, we

Oakland Tribune/Michael Macor

Medics aid a victim injured by the collapse of the Cypress Freeway during the October 17, 1989, earthquake in Oakland, California.

increased the press run. But we kept selling out.

REPORTING NEWS AND INFORMATION

Chernobyl taught us that a lack of information can be deadly. It is also true that facts, when quickly revealed, can save lives. After the great Oakland earthquake of 1989, people needed to know how to turn off gas mains to keep their houses from blowing up and how to tell if structures were safe. In the hillside inferno of 1991, residents needed to know when to leave their neighborhoods and whether the huge smoke cloud made the air unsafe to breathe.

Once they were in a safe location, our readers wanted to know everything—who? what? when? where? how? why?

So the first public service is simply reporting the news. Even in the electronic age, the press still does this better than anyone. A local newspaper can provide saturation coverage, catching every angle and printing more words than could be read on the air on radio or TV stations in a 24-hour period. During the first week of coverage of both the earthquake and fire, more than 130 *Tribune* journalists printed about 500 stories and photos on more than 100 broadsheet newspaper pages.

Some of the stories were horrible: people crushed under a 100-ton freeway or vaporized by 2,000-degree flames. But other stories were beautiful: Oaklanders who risked their lives to rush up onto the Cypress Freeway and pull out dozens of commuters; people from all over the city who rushed to help the 10,000 fire evacuees. Some stories were pure information: lists of burned homes, names of victims, closed streets, damage estimates. Some were pure emotion: pictures of grief and heroism.

Does saturation coverage help a newspaper become an instrument of community understanding? It certainly does. For emotional impact, nothing beats the live footage of flames consuming a neighborhood. But if you really want to help disaster victims and your community, you'd better get hold of a newspaper. Television stations don't provide the detail needed on the local level.

Before emergency workers can know what they should do next, before readers can know how they could help, they have to know what really happened. Only through comprehensive coverage of the whole awful disaster can a newspaper help people and their elected representatives make informed decisions. Only by covering the human side of the disasters, the heroes and the victims, can a newspaper bring a human response from its readers.

COMMUNITY SUPPORT

Many newspapers see their role as informational only: just the facts. We couldn't do that. We wanted to provide direct support to victims of these disasters. They were our civic leaders and business people, our artists, lawyers, and laborers, our friends and neighbors. They were family. During the fire, faced with a mind-boggling 10,000 evacuees, we hit upon an idea: the *Tribune* set up a hot line to take their calls and answer their questions. Over the weeks and months, thousands would call.

We couldn't answer all of their questions, so we started a bulletin board in the newspaper—free listings, column after column of messages placed by people who were trying to find their missing friends, missing pets, or new homes for invalid relatives. Incredibly, from the first day, the column of needs was matched by the column of listings from people offering help, free temporary lodgings, free counseling, and free furniture. Much to our amazement, and with virtually no journalistic involvement, the hot line and bulletin board worked. Pets were found, friends reunited, and needs met by the thousands.

Six months after the fire, the hot line and bulletin board are daily features that allow fire survivors to speak directly to each other, helping them rebuild. A community talked itself back from the depths of disaster through its newspaper.

LEADERSHIP

It is one thing for a newspaper to report the pronouncements of government officials. It is quite another to get right out on the edge of a story, to talk to the experts before politicians have had a chance to get

Oakland Tribune/Daniel J. Murphy

A bicylist weaves his way through downed power lines and debris after the October 20, 1991, fire in the hills of Oakland, California.

to them, to analyze data, and to form independent conclusions about what happened and why. This is what journalists call "getting out ahead" on a story. When it works, it means that newspapers are helping their community quickly identify its problems and shape solutions.

A week after the earthquake, the *Tribune*'s investigative team published the first comprehensive account of the Cypress collapse, "Why the Freeway Fell." Reporters detailed the outdated design of double-deck freeways, the loose soil under the structure, the poor techniques used in construction. In the end, Oakland decided to replace the Cypress with a ground-level freeway, San Francisco dismantled its double-deck freeway, and California embarked on a program of reinforcing elevated freeways throughout the state.

A week after the fire, the *Tribune*'s team produced "Bitter Lessons," which explained why wildfire ravaged our hillside with such ease. The series revealed Oakland's haphazard standards for building in fire-prone areas; how fire fighters could have saved blocks of homes if the water system had not failed; that the fire department's emergency response plan was ten years old; and that a powerful lobby had persuaded state legislators to ignore the hazards of wood-shingle roofs.

"Bitter Lessons" ended with a front-page editorial detailing what the city must do to prevent such a tragedy from happening again. Within weeks, the city approved a fire protection plan that included many of the paper's recommendations. A key state report supported our blueprint for fire-safe building in the hills.

We tried to "stay ahead" of the stories because we knew we were not the ultimate decisionmakers: our readers, through their elected officials, would choose the course. But we tried to put it all before them: not just our investigations and editorials, but dozens upon dozens of guest columns, from the mayor, the fire chief, homeowners, and just plain citizens.

Total coverage leads to freewheeling debate. Sometimes there is almost too much heat—the gloves come off, things get combative—but the community pulls itself together and makes the decisions it must make. That is what the free press is all about. The alternative, as we have seen too many times, is disaster.

Powell Tate

Jody Powell

served as President Jimmy Carter's press secretary from 1976 to 1980. He has written a nationally syndicated column and was also a news analyst for ABC News. Powell is currently chair of Powell Tate, a public relations company.

THE MEDIA AND GOVERNMENT

Having spent almost a decade as press secretary, six years as a journalist, and five years running a public relations company, there is one thing of which I am certain—politicians and journalists will continue to abuse, and use, each other because neither profession would be much of a challenge, or much fun, were it otherwise.

From the politician's perspective, a good bit of the animosity between the media and the government stems from the fact that few of us, whatever our professions, enjoy having someone looking over our shoulders always asking why we did what we did—particularly on those occasions when things didn't work out the way we'd hoped. And the more difficult and frustrating the task, the greater the distaste for that critical, questioning onlooker who seems to delight in exaggerating our failures, ignoring our successes, and generally making the job more difficult and frustrating than it was to begin with.

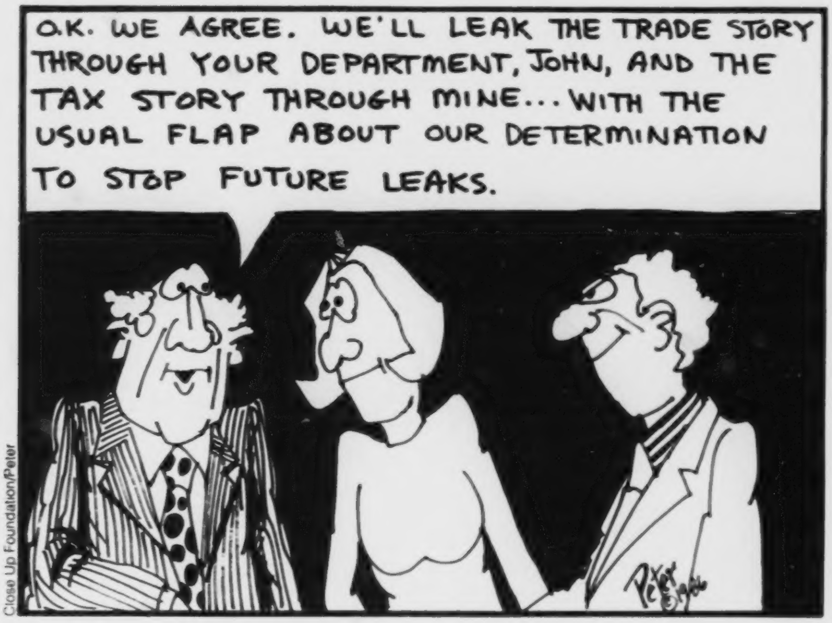
Most of us resent being told that we made a mistake, particularly if it's true, and especially if the telling takes place in front of more than 40 million of our fellow citizens (an average audience for the evening news broadcasts). This source of resentment is absolutely unavoidable. And there is nothing that journalists or anyone else can or should do about it.

Nor should journalists or the public worry too much about charges that media reports are partisan or philosophically biased. Most of these allegations come from critics who are more ideological than analytical, and they just won't stand up in court.

The vast majority of the reporters I have known, from both sides of the fence, are primarily concerned about getting an interesting story, not promoting a point of view. The thing that most frequently leads journalists astray is not ideology but ambition, the temptation to cut corners to make a story more interesting and exciting than the facts justify.

However, some criticisms from public officials are worthy of attention. First is the charge that journalists tend to be arrogant and self-righteous, based on the erroneous assumption that journalism is somehow a more noble and idealistic vocation than public service.

The main problem with this holier-than-thou attitude is that it makes it too easy to dismiss all public officials as a "bunch of crooks" with few redeeming virtues. What this creates is a self-fulfilling prophecy. Because it is easier to deal with being


O.K. WE AGREE. WE'LL LEAK THE TRADE STORY THROUGH YOUR DEPARTMENT, JOHN, AND THE TAX STORY THROUGH MINE... WITH THE USUAL FLAP ABOUT OUR DETERMINATION TO STOP FUTURE LEAKS.
Peter

Close Up Foundation/Peter

treated like a rascal if you really are one, this attitude tends to drive decent people away from public service in the long run.

The truth is that both politicians and journalists can be powerful and inspirational leaders at their best and positively disgusting criminals at their worst. Most of us, whether we are asking or answering the questions, fall somewhere in between. We make our daily compromises between what we know to be right and what we think is possible, and hope that the balance of a life's work will be judged more selfless than selfish.

A second criticism of the media that has some justification is the charge that journalists are not held sufficiently accountable for their mistakes. Politicians are held accountable primarily through the efforts of those nosy, irritating, second-guessing journalists—and by criticism from their opponents, who get most of their material from news reports.

Journalists, however, are notoriously reluctant to criticize, second-guess, or otherwise look over the shoulders of other journalists. They will, and should, go headlong after business executives, labor leaders, county commissioners, and presidents when they catch them outside the bounds of propriety. But they turn meek and mild when it comes time to point the finger at shoddy practices in their own profession.

It's not that editors don't edit or that news organizations never penalize their reporters for their mistakes. The problem is that it makes no more sense to leave the managers of newspapers and networks solely responsible for calling the fouls on their own team than it does to leave the president or his or her chief of staff solely in charge of keeping White House staff on the straight and narrow. Both institutions, indeed all powerful institutions with great capacity for good or ill, need someone from the outside to look over shoulders, ask hard questions, and point fingers.

For example, if a newspaper makes an accusation of wrongdoing based on questionable information, why shouldn't other newspapers feel a responsibility to look into the controversy, determine the truth to the best of their ability, and set the record straight?

If a television network misinforms its viewers about an important matter of public policy, why shouldn't other networks feel an obligation to answer the public's legitimate questions about what happened, why, and what is being done to see that it doesn't happen again?

If a reporter or columnist is known by his or her colleagues to be promoting a politician or special interest, why should that information be withheld from the rest of the country?

The good news is that journalists do criticize other journalists more frequently than they once did. And news organizations have become a bit more willing to investigate one another. The bad news is that much more of this sort of finger pointing needs to be done. It won't make journalists more popular with politicians, but it might make for better journalism—and a better-informed public.

The Richmond News Leader

Bob Gorrell

is the editorial cartoonist for the Richmond Times Dispatch. *His award-winning cartoons are nationally syndicated and have appeared in many major news magazines.*

AN EDITORIAL CARTOONIST LOOKS AT HIS WORK

As much as anything else, the job of modern editorial cartoonists is that of exciting reader interest in the issues of the day. Very rarely will an editorial cartoon actually shift an unsympathetic reader's point of view to that of the artist, but it often does serve to polarize opinion, increase debate, and mobilize support both for and against the cartoonist's position on an issue.

When cartoonists do alter public opinion directly through their work, it is most often by way of a long "war of attrition," through many cartoons on a single issue rather than through one single, potent masterpiece of satire. No one cartoon leveled Richard Nixon's image with the voters, but many cartoons of Nixon crawling from sewers wearing his notorious five o'clock shadow over many years of relentless attack finally changed the public's perception. Nixon the president came to be viewed as Nixon the sleazy cartoon caricature, and this as much as any political intrigue precipitated Nixon's downfall.

Such effectiveness is the ideal to which all editorial cartoonists aspire. It is a dream inspired by political cartoonist Thomas Nast and his battles against Tammany Hall in the 1870s. But more often than not, cartoonists fall short of that perfection and must settle for the consolation prize of giving some editorial insight and motivating readers to think about and discuss the issues.

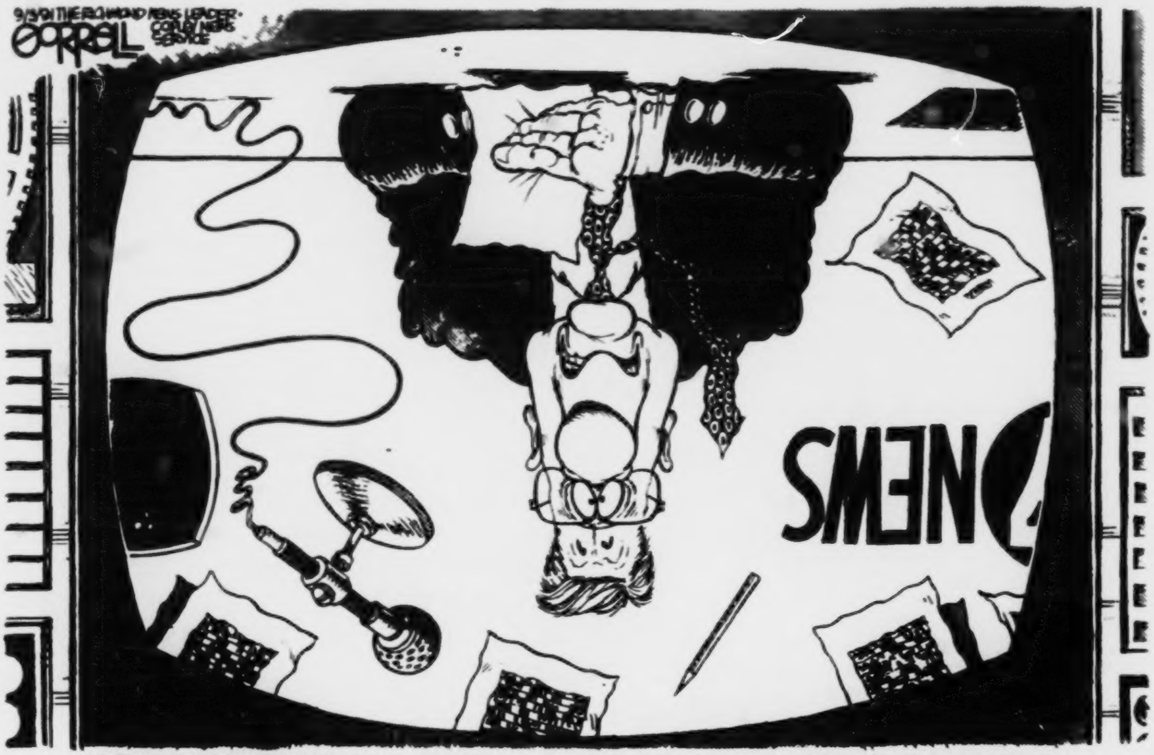
Even in this limited capacity, editorial cartoons have a unique power. An island of art surrounded by a sea of grey text, they naturally attract the reader's attention and are generally the first item studied in their section of the newspaper. The old cliché holds that one picture is worth a thousand words, but when carefully crafted, a political cartoon might be worth much more.

The visual character of the cartoon is its strength; simplicity of form and content make it stand out on a page of convoluted analysis of complex issues. In these days of maze-like budgetary considerations and confusing foreign policy options, it is a luxury for readers to find editorial commentary that is direct and unequivocating. While a cartoonist lacks the writer's tools for making fine distinctions of fact and precise expressions of thought, his or her visual vocabulary is just as effective. The editorial writer manipulates a verbal scalpel, but the cartoonist wields a visual hatchet.

The cartoon form is most useful for making broad editorial points in a relatively direct fashion. Because cartoons are generally more emotive than written editorials, they tend to carry more immediate impact. Reading a cartoon is a quick experience. What takes the artist hours to produce is usually consumed by the audience in a few brief seconds. That short time, though, is sufficient to convey the cartoonist's message, and the cartoon image imprints itself on the reader's mind as no long-winded editorial can.

Artwork is the vocabulary of cartoonists, and, as writers would, they select and arrange their "words" in any way desired. The term "cartoon" implies humor, and that is the mode in which many modern cartoonists choose to operate. Laughter takes the hard edge off of serious commentary, and even the most acidic, humorous satire is easier for the reader to digest than dry pontification and somber messages of political doom. Rather than alienating their readers with editorial browbeating, most cartoonists prefer making their points while chuckling with the audience.

The best cartoons use humor only as a means and not as an end in itself. Humor is merely a vessel in which commentary is conveyed, and the cartoonist must recognize that not every situation or event can be treated in a lighthearted manner. Masters of the cartoon craft can control many moods and create many variations of tone in their work. They employ all aspects of argumentative style—from pathos to irony to pure logic—in their approach to various subjects. One of the signs of a top cartoonist is his or her ability to keep the reader a bit off balance from day to day. The cartoonist's political and social philosophy remains basically constant throughout his or her work, but the mode of expression used is always fresh and unexpected.



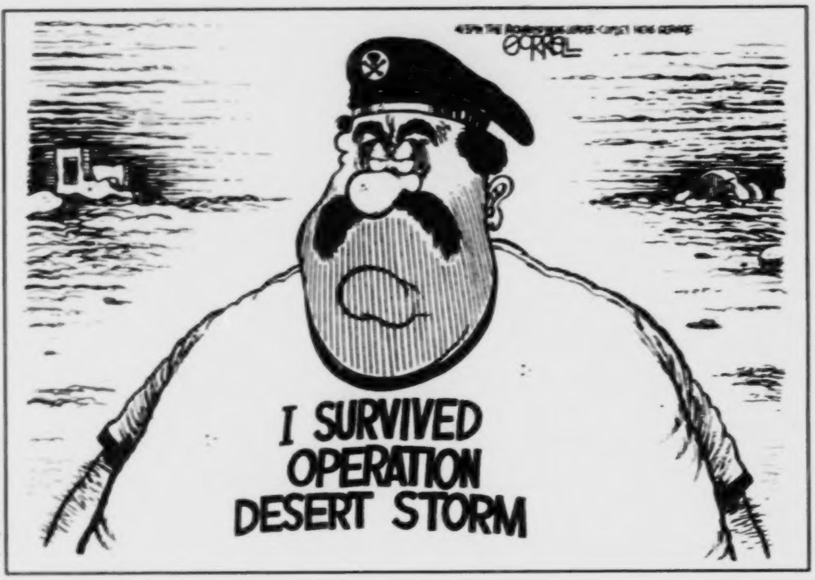
"SOVIET COMMUNISM COLLAPSES.... BALTIC STATES ARE FREE.... SUN RISES IN THE WEST.... MORE NEWS AFTER THESE MESSAGES...!"

Copley News Service

Because an editorial cartoon's imagery is based upon exaggeration of fact and can be very biting, cartoonists are constantly faced with the question of fairness in their work. Each cartoonist and his or her editor establish their own unique working environment and set their own rules and guidelines as to how outrageous a cartoon may become.

Many cartoonists believe they should be "free agents" on the editorial page and that they should be allowed to voice whatever opinion in whatever fashion they desire. Others are more inclined to consider themselves employees whose duty is to illustrate their newspaper's editorial philosophy. Perhaps the ideal situation for cartoonists lies somewhere in between those extremes, with artists finding employment with editors who are in broad agreement with their political beliefs and who will exercise subtle and unobtrusive authority in limited cases of taste.

Fairness usually enters into cartoonists' work during its early formative stages, while they are deciding their positions on any given issue. It is at this point that the artist weighs all the facts at hand, listening carefully to both sides of a question before arriving at a position. Once that point is reached, however, fairness becomes a secondary consideration. Within the limits of taste, cartoonists use whichever imagery or metaphor makes a point most effectively.



Copley News Service

Comic strip artist Bill Keane jokes that editorial cartoonists work out of a "deep hatred for mankind." That is, of course, an overstatement, but it is impossible for editorial cartoonists to worry about the sensitivity of their subjects and remain effective. To some degree at least, cartoonists must view politicians and public figures in the abstract. Their roles as political and social critics are essentially a negative enterprise, and it would be impossible to point out politicians' many faults if they viewed them as friends.

The inherent negativism of their craft sometimes brings criticism raining down on the cartoonists themselves. Usually, outraged reaction to cartoons originates with readers rather than politicians. It seems that those holding public office are less inclined toward indignation than their supporters, subscribing to the old theory that newspapers can say whatever they want about the politician, as long as they spell his or her name correctly.

Much of the condemnation directed at cartoonists is the result of their opinions on social issues, such as abortion or school prayer, rather than their political beliefs. The volume of response received by a cartoonist on any given drawing can be viewed as an index of its effectiveness. It is on those days when the phone keeps ringing and the mail keeps coming that cartoonists know they have done their jobs. They have awakened the politically lazy and made the reader take notice.

BIAS IN THE MEDIA:

TWO VIEWS

Close Up Foundation/Renee Bouchard

Joseph C. Goulden

is director of media analysis for Accuracy in Media, a watchdog group in Washington, D.C. He was the Washington bureau chief of the Philadelphia Inquirer *and has written sixteen books.*

AN OVERWHELMINGLY LIBERAL BIAS

In October 1990, an editor of one of America's leading newspapers wrote about the "rights" of persons who happen to find themselves in the news, for whatever reason:

> You are not "entitled" to a letter to the editor, to an op-ed piece or even to a paid advertisement; if we don't like it, we don't print it. To ask for "equal time" on the evening news or in the morning newspaper is, very often, to bay at the moon. You have no "right" to fair treatment, no "right" to be quoted accurately or in context or even quoted at all in news reports, broadcasts or commentaries. . . . If your reputation is soiled in a front-page story under a four-column headline, it is most unlikely to be cleansed in the same spot (if it is cleansed at all). . . .

These feelings were expressed on October 28, 1990, in a column in *The Washington Post* by Richard Harwood, an assistant managing editor serving the paper as ombuds-

Roberto Diaz

Andrew L. Shapiro

teaches at the Dalton School, works at The Nation *magazine, and is the author of* We're Number One! Where America Stands—and Falls—in the New World Order *(Vintage, 1992).*

CONSERVING THE STATUS QUO: THE REAL MEDIA BIAS

Imagine that in the middle of class your teacher stopped her lesson and began to sell a product: a slick new car, a tasty cereal, maybe even a smooth brand of cigarette. It would seem odd, perhaps inappropriate. You might even question how your teacher's sales pitches affected what she was teaching you all along.

But unlike this scenario, advertising is so common on television and in publications that we rarely question what impact it has on the programs we view or the stories we read. Indeed, it is hard to imagine what the nightly news would be like without interruptions from General Motors, McDonald's, or Nike. Our natural acceptance of this relationship between corporate selling and presentation of the news is representative of the way we generally fail to see media bias, especially bias in favor of the economic and political status quo.

WHAT IS MEDIA BIAS?

The founding fathers of America guaranteed freedom of the press because they recognized the importance of the "fourth estate": an independent media that would criticize injustice and corruption in government and the private sector. Today,

GOULDEN CONTINUED . . .

man. (This Swedish word is for a specially designated individual in an institution who attempts to resolve disputes and handles complaints, particularly, in the case of a newspaper, from the public.) Although harsh on their face, Harwood's words have the refreshing quality of being candid about one of the greater failings of the American media: in a practical sense, fairness is irrelevant to the news business.

The press is the only institution in America that enjoys constitutional immunity from regulation. No one can take serious issue with the First Amendment. But what commensurate responsibility does the press impose upon itself? Little, if any. A lawyer who lies in court can be jailed for contempt or kicked out of the local bar association; a doctor who consistently botches surgery faces loss of his medical license. Various journalistic lodges such as the American Society of Newspaper Editors and the Radio Television News Directors Association have windy "codes of ethics" that are impressive when framed on the wall—but I have yet to hear of a single instance in which journalists defrocked one of their brethren for professional misconduct.

The downside of press freedom is widespread public disgust with press bias. In a remarkable survey published in 1989, the Times Mirror Corporation (a media company whose holdings include *The Los Angeles Times*) found that 68 percent of American adults do not trust the media to report fairly and objectively on political and social issues. During the Persian Gulf War, at the height of press bellyaching about the Pentagon's "censorship," more than 70 percent of the American public wanted even ***tighter*** restrictions imposed on the media.

The public is angry with the media because reporters and editors force-feed captive audiences their perceptions of the world—perceptions that often are far removed from reality and that stem from an overwhelmingly liberal bias. The evidence is both statistical and anecdotal.

The Center for Media and Public Affairs, a Washington think tank, in

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SHAPIRO CONTINUED . . .

the media's increasing entanglement with big business and their uncritical attitude toward government signal a departure from what the founders of our nation sought in a free press. Instead of scrutinizing authority and holding it accountable, the media are now largely conservative: they *conserve* the interests of those in society who have power. This bias is apparent when we look at three factors: (1) who controls the media; (2) who delivers the news to us; and (3) what news they do—and don't—deliver.

WHO CONTROLS THE MEDIA?

Major media sources depend on advertising for income and are therefore often reluctant to bite the hand that feeds them. A recent study by The Center for the Study of Commercialism demonstrates the way the press often censors itself because of pressure from advertisers. Even a small, seemingly independent magazine, ***The New Republic***, killed a story on the dangers of smoking in 1985 because it feared retaliation from tobacco advertisers, who were a large revenue source. "In this case I think it's true that we buckled before an advertiser," editor Leon Wieseltier told the author of the piece (which was later published in *The Washington Monthly*, a magazine that refuses tobacco advertisements). Advertising can corrupt the editorial content of media in subtler ways as well. Some magazines, for example, will feature a company's product in a story in exchange for advertisements from that company. Taking this trend to a new height, Philip Morris—the maker of Marlboro and other cigarettes—now publishes and freely distributes its own monthly magazine with a reported circulation of more than 10 million, making it one of the largest publications in the nation.

Media sources are increasingly owned by large corporations. Ben Bagdikian, former ***Washington Post*** editor and author of *The Media Monopoly*, estimates that about twenty corporations own the majority of the U.S. media (including television, newspapers, magazines, books, and motion pictures). This number has decreased from about fifty corpora-

GOULDEN CONTINUED . . .

1984 surveyed more than 200 leading reporters and editors from national news organizations. A majority viewed themselves as liberals; 54 percent put themselves "left of center." The percentage who said they voted for Democratic presidential candidates never dropped below 80 percent.

During almost four decades as a professional journalist, I saw this bias at the working level. According to this bias, businesses and government agencies cannot be trusted to tell the truth, although there are exceptions for such outfits as the Environmental Protection Agency (EPA), whose activist program overlaps the "green" bias of journalists. Similarly, in this view, the American military exists chiefly to fight unjust wars against persons struggling for freedom, and Latin "revolutionaries" can't be called "communists" in print or on the air, even when they virtually shout their Marxist beliefs from the barricades.

Media favorites are judged by a media double standard. A good example: by the early 1960s, it was apparent to anyone who bothered to look that Fidel Castro had transformed Cuba into a Latin version of a Stalinist dictatorship. He did not bother to pay even lip service to freedom of speech or the press or to imprisoned dissidents who could not escape from his island. The same American journalists who vowed their fidelity to the First Amendment of the U.S. Constitution chose to ignore Cuban newsmen who were jailed—or shot by firing squad—for criticizing Castro. As recently as February 1992, the NBC News "Today" show was airing commentary by its anchor blaming the U.S. economic blockade for Castro's collapsed economy, totally ignoring the parallel to the concurrent failure of other communist economies in the former Soviet bloc.

Given Republican domination of the White House since 1969 (save for the four Jimmy Carter years), the liberal media consistently gives a president rougher treatment than is afforded the Democratic majority that runs Congress. Brit Hume covered Congress for ABC News before shifting to the White House at the start of the Bush administration. Hume says

SHAPIRO CONTINUED . . .

tions in the early 1980s, Bagdikian says, and is diminishing. As our information sources are owned by fewer and fewer corporations, their independence is further jeopardized. Corporations are primarily interested in making profits; news stories that threaten profits are often squelched. Former NBC News President Lawrence Grossman says that during the stock market crash of 1987, an executive at General Electric (GE)—which owns NBC—told him not to play up the market crash on the news because GE was worried that their stock would be further devalued. Sydney Schanberg, the Pulitzer Prize-winning journalist who was portrayed in the film *The Killing Fields*, lost his job as a columnist at *The New York Times* after he opposed a real estate development project from which the *Times* might have profited. As these examples show, the journalist's credo to "tell it like it is" is often outweighed by the interests of those who own and control the media.

WHO DELIVERS THE NEWS?

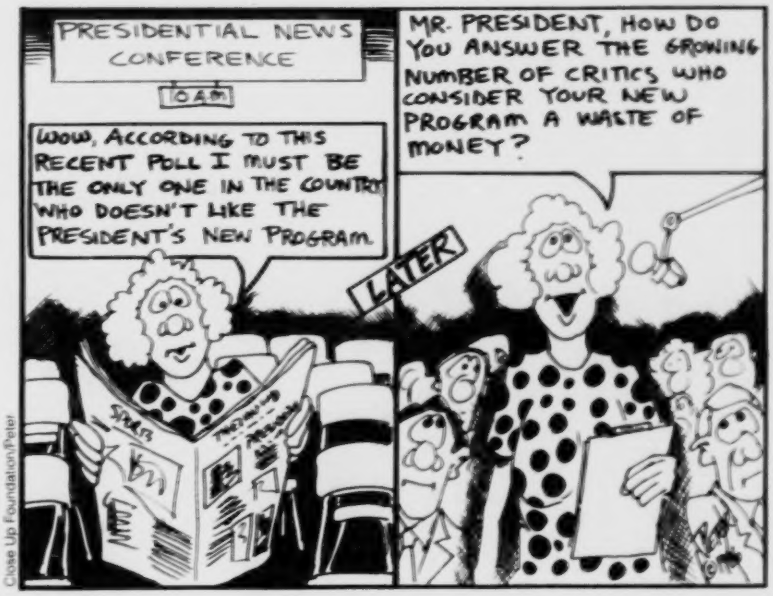
Yet those who report and produce the news are also responsible for media conservatism. A predominant myth of American public life is that the media are overwhelmingly liberal. Although some studies have shown that a large percentage of journalists identify with liberal causes or vote for Democrats, these surveys are nearly irrelevant because the political views journalists claim to have do not necessarily reflect the political slant of their news stories. Why? Because journalists' opinions are far less important than the opinions of the hierarchy of individuals who decide what is news: assignment editors, editors-in-chief, publishers, and, ultimately, owners of a newspaper, radio station, or TV network. A survey of these individuals would probably reveal more support for the economic status quo and less interest in accommodating people with little power.

A good example of the exclusivity and conservatism of media personalities is found in a study of ABC's *Nightline*—considered by many to be

GOULDEN CONTINUED . . .

he was immediately struck by the contrast between the hostile attitude White House reporters displayed on a daily basis, and the more collegial atmosphere between members of Congress and journalists assigned to cover them.

On the environment, the press has unflinchingly adopted the apocalyptic approach on such issues as acid rain, global warming, pesticides, population, and famine. Contradictory science is ignored when it challenges media preconceptions. At an environmental conference at the Smithsonian Institution in Washington in 1989, leading journalists spoke candidly of their bias. Charles Alexander declared, "As the science editor of *Time*, I would freely admit that on this issue we have crossed the boundary from news reporting to advocacy." Andrea Mitchell, who covered Congress for NBC News, agreed, saying "clearly the networks have made that


PRESIDENTIAL NEWS CONFERENCE
10 AM
WOW, ACCORDING TO THIS RECENT POLL I MUST BE THE ONLY ONE IN THE COUNTRY WHO DOESN'T LIKE THE PRESIDENT'S NEW PROGRAM.
LATER
MR. PRESIDENT, HOW DO YOU ANSWER THE GROWING NUMBER OF CRITICS WHO CONSIDER YOUR NEW PROGRAM A WASTE OF MONEY?

Close Up Foundation/Peter

SHAPIRO CONTINUED . . .

the best television news program—conducted by Fairness and Accuracy in Reporting (FAIR). FAIR's study showed that 89 percent of the guests on *Nightline* between 1985 and 1988 were men; 92 percent were white; and 80 percent were professionals, government officials, or corporate representatives. According to FAIR, *Nightline* rarely invited guests with alternative views on international or domestic affairs. Indeed, the four most frequent guests were Henry Kissinger and Alexander Haig, each of whom was secretary of state in a Republican administration; Elliot Abrams, an assistant secretary of state in the Reagan administration (who pleaded guilty in 1991 to charges that he withheld information from Congress's Iran-*contra* investigation); and Jerry Falwell, a conservative minister.

The absence of women, minorities, and left-of-center commentators on *Nightline* parallels their absence on other television and radio programs and on newspaper opinion pages. A 1992 study by the University of Southern California found that women, who make up more than half of the U.S. population, appear in lead newspaper stories only 13 percent of the time. Compare the number of government officials quoted on the front page of your local paper with the number of individuals from organizations representing consumers, environmentalists, children, women, workers, and minorities.

WHAT NEWS IS—AND IS NOT—DELIVERED

The content of news also leans in a conservative direction. Why, for example, did *The New York Times* run seventy-eight articles on the 1984 murder of a Polish priest in then-communist Poland and only fifty-seven stories on 100 religious figures killed in Central America over a period of years? The difference in the quantity and quality of coverage, say Noam Chomsky and Edward S. Herman in their book, *Manufacturing Consent,* reflects the difference between the media's perception of "worthy" and "unworthy" victims ("worthy" victims being those killed by political *enemies* of the United States, and "unworthy" victims those killed by political *allies).*

GOULDEN CONTINUED . . .

decision now, where you'd have to call it advocacy."

Executive editor Ben Bradlee of *The Washington Post* (now retired) chided the journalists for being so public about their bias. "I don't think there's any danger in what you suggest," Bradlee said. "There's a minor danger in saying it, because as soon as you say 'To hell with the news, I'm no longer interested in news, I'm interested in causes,' you've got a whole kooky constituency to respond to, which you can waste a lot of time on."

The media submit themselves to "news management" concerning the environment to a degree that shames professionalism. A good example: EPA for years has tried to hype public scares about radon, even though competent scientists say that the risk in the average house is no higher than the risk of dying from a fall. In 1989, the EPA press office paid a supposedly independent "environmental center" more than $40,000 to produce a 58-page booklet titled "Reporting on Radon: A Journalist's Guide to Covering the Nation's Second-Leading Cause of Lung Cancer." It takes little imagination to predict press reaction had the Pentagon paid $40,000 for a booklet titled "Reporting the Persian Gulf War: A Journalist's Guide to Covering Our Military Effort Against a Dictator." Accuracy in Media publicized the radon book; environmental writers reacted with a collective yawn.

What can be done about media bias? Morrie Litman, my city editor at *The Philadelphia Inquirer*, once detected too much enthusiasm for a cause in a news story I had written. Morrie called me to his desk. "Kid," he said, "if you want to influence public opinion, go upstairs and write editorials. But keep your opinions out of my newsroom, okay?" Fair enough.

SHAPIRO CONTINUED . . .

The media's acceptance of the political status quo was also apparent during the 1991 war in the Persian Gulf. In an attempt to prevent the type of antiwar sentiment that surfaced during the Vietnam War, the Pentagon placed restrictions on journalists' freedom to travel and gather news. Journalists were pooled and led around by military officials who controlled what the media saw, whom they spoke to, and what they reported. A few small, dissenting publications—including *The Nation*, *Harper's*, and *The Progressive*—sued the Pentagon, arguing that the restrictions abridged freedom of the press. America's major networks and newspapers did nothing until after the war, when they issued a statement of disapproval of the Pentagon restrictions. By that time, though, the lawsuit had been lost. The reluctance of the major media to join the campaign against press restrictions during the war represents the worst kind of media conservatism: unwillingness to criticize perceived government abuses because of political allegiance or fear of losing the story.

Eradicating media conservatism may be difficult, but we can make ourselves aware of bias by examining our news sources carefully. Do our television and radio stations give air time to commentators on both sides of an issue? Do the magazines and newspapers we read allow criticism of corporations that advertise in their pages? Asking tough questions is our best defense against a media that is increasingly afraid to challenge the status quo.

The author thanks Victor Navasky and Fairness and Accuracy in Reporting (FAIR) for their contributions to this article.

The Media

THE U.S. GOVERNMENT, THE MEDIA, AND THE PERSIAN GULF WAR

by Nancy A. Bergman

Close Up Foundation/Renee Bouchard

This is the story of how the government tried to control the activities of the media during the Persian Gulf War. As you read, try to answer these questions:

- *How do the interests of the military and the media sometimes clash during wartime?*
- *How were the media allowed to operate in Vietnam?*
- *What is the pool system, and why is it used?*
- *What restrictions were put on the media in the Persian Gulf War?*
- *What complaints did the media have about access to information during the Persian Gulf War?*

In times of war, the issue of freedom of the press can become cloudy. On one hand, it is in the country's interest to see that certain information is kept confidential; it is obviously important not to alert or assist the enemy. On the other hand, the American public has a right to be kept informed about the government's activities. Philip Knightly, in his book *The First Casualty*, has said that in his experience of reporting in wartime, truth is the first casualty of war.

War correspondents have long risked their lives to keep the public informed. The presence of news reporters on the battlefield is a fighting tradition, as the more than 200 American or American-employed correspondents killed during wartime since 1941 illustrate. The reporter's independent perspective provides the people back home with a different viewpoint from official military statistics and reports. But do reporters have a right to be on the battlefield when the military does not want them there?

In August 1990, President George Bush ordered American soldiers to Saudi Arabia after Iraqi troops invaded Kuwait and took over that country and its oil fields. By the end of the year, nearly 500,000 U.S.

troops were stationed in Saudi Arabia. They were joined by forces from twenty-seven other nations.

The United Nations (UN) imposed economic sanctions against Iraq and Kuwait. But when sanctions failed to oust Iraq from Kuwait, the UN authorized its members to "use all necessary means" to drive Iraqi troops from Kuwait after January 15, 1991. Last-chance peace talks also failed, and on January 16, under the command of the United States, allied forces began to bomb targets in Iraq. After weeks of bombing, President Bush ordered a ground assault against Iraqi troops. Moving with lightning speed, allied forces overran the Iraqi army within 100 hours. A cease-fire was declared and the war ended.

The press was subject to restrictions during this war. Only a small percentage of the reporters in the region were allowed to go to the battlefield or talk with the troops. These reporters were organized in groups called *pools*, which could only travel with military escorts. Reporters' stories were reviewed by military personnel before being released. In fact, when the ground war began, military leaders imposed a news blackout during which reporters were not allowed to accompany the troops and were not given any information about how the war was going.

Did the Department of Defense try to conceal information from the public by restricting reporters' access to the war and by reviewing their work? Or was the Pentagon merely protecting a sensitive military operation? How important is independent civilian coverage of a military mission? A study of the history of news reporting in wartime and a look at the Persian Gulf War will shed some light on these questions.

JOURNALISTS AND WAR

The struggle between the press and the military goes back more than a century. During the American Civil War, reporters were commonplace on the battlefield. Photographer Mathew Brady followed the Union Army with his cartload of cameras, taking pictures of soldiers, officers, tent encampments, and battlefields as he went. He moved behind Union lines with almost complete freedom, often on the heels of the attacking soldiers.

Union General William Tecumseh Sherman became famous for his spats with newspaper reporters, saying, "We don't want the enemy any better informed than he [the enemy] is." Sherman even threatened to shoot one correspondent as a spy until President Abraham Lincoln intervened. In retaliation for such treatment, Northern newspapers began reporting that Sherman was insane. However, Sherman's strong-arm tactics may have stood to his benefit. His devastating four-month "march to the sea," during which his troops destroyed everything in their path from Atlanta to Savannah, was over before any mention of it appeared in print.

In subsequent American military involvements, the role of the press continued to be controversial. In 1898, newspaper mogul William Randolph Hearst sent artist Frederick Remington to Cuba to report on the war there. Remington wired Hearst that there was no war. Hearst cabled in return, "You provide the pictures, and I'll provide the war." The stories

UPI/Bettmann

Mathew Brady was one of the first photojournalists to go to the battlefield to cover a war. Brady's Civil War photographs document what soldiers on both sides had to endure.

about Cuba in Hearst's paper, *The New York Journal*, inflamed popular opinion toward going to war with Spain.

However, every government recognizes the need for some censorship during times of war. During World War I, the United States entered the conflict on the side of Great Britain and France. Press reports of the fighting passed through British and French censors before reaching American shores. During World War II, American reporters could write what they wished, but army censors had to review all dispatches, film, and tapes from the battlefield. Photographs of dead American soldiers were banned until 1943, more than one year after the Japanese attack on Pearl Harbor that propelled the United States into the war. Reporters covering the battlefields wore military uniforms with "war correspondent" badges, which helped them to get transportation, food, and shelter and identified them as noncombatants.

Wartime censorship was adapted to the new medium of live radio during World War II. While German planes were bombing London, Edward R. Murrow broadcast reports of the bombing from a rooftop. At his elbow was a military censor; as soon as Murrow began to talk about any sensitive topic, the censor would tap his wrist and Murrow would change the subject.

Similarly, the press participated in the D-Day landings at Normandy, France, on June 6, 1944, under censored conditions. Some correspondents parachuted into the war zone with the first troops, bearing typewriters instead of M-1 rifles. Others landed with the assault troops on French beaches. All were able to write about what they saw, but military censors reviewed their stories for any information that might aid the enemy.

Despite its censorship, the military in World War II gained the cooperation of the news media. The war was a popular one, with the clear purpose of defeating Japan and stopping Nazi leader Adolf Hitler. The press joined with the military in keeping vital facts secret and willingly delayed news reports until the events they described were no longer important to the enemy. This self-censorship by the press created a sense of trust between the military and the news media.

THE MEDIA AND VIETNAM

During the 1950s, President Dwight Eisenhower sent military advisers to Vietnam to help create a democracy in the southern half of that country. France, the former colonial power in Vietnam, had pulled out, and the stability of Vietnam was seen as an important link in preventing the spread of communism in Southeast Asia.

Initial American press reports from South Vietnam were few and reflected the Eisenhower administration's optimism about its policies there. Most American journalists did not arrive until after 1961, when a popular movement against the corrupt regime of South Vietnam's president Ngo Dinh Diem grew into a civil war between government troops and South Vietnamese communist guerrillas called the Viet

Library of Congress

During World War II, radio broadcasts from Europe kept Americans informed about the progress of the allies. Perhaps the most famous of all radio journalists, Edward R. Murrow, made daily broadcasts from London during the Battle of Britain.

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UPI/Bettmann Newsphotos

Many American military officers felt that the graphic coverage of the fighting in Vietnam turned public opinion against U.S. involvement there. Relations between the military and the media have been strained ever since.

Cong. When President John Kennedy increased the number of U.S. "advisers" from 500 to 10,000, press coverage increased proportionately. In mid-1964, about twenty American and foreign correspondents were reporting from Saigon, the capital of South Vietnam. The number of reporters grew to 131 by late 1965 and to 634 by 1968, when U.S. involvement peaked.

Perhaps the most important aspect of the coverage of the Vietnam War was its vividness. Vietnam was America's first televised war. Instead of reading about battles and bombings, Americans actually saw these events happening every evening on the news. War was no longer newsprint or black-and-white newsreels in a movie theater. The war was thrust into the nation's living rooms in living color.

The media brought back graphic images of human suffering, of bleeding soldiers and destroyed homes. Many military officers believed that the television coverage of the war focused on the negative side of combat, which eroded popular support. American officers felt that the stories that came out of Vietnam were slanted against the army and did not present a balanced view of the fighting. They felt that television made them look like vicious killers, minimizing the importance of their mission and their accomplishments. As a result, relations between the military and the media became strained even though, according to one historian, no tactical military operation was jeopardized by premature disclosure in the press. Instead, the threat perceived by the army was the misrepresentation of the army's purpose and image. Many military officials wanted stronger control over what the people back home saw and heard about the war.

THE INVASIONS OF GRENADA AND PANAMA

The U.S. invasions of Grenada and Panama gave American military leaders a chance to develop new procedures for press coverage of war. In 1982, the Reagan administration had witnessed the successful control of the press by the British government during its conflict with Argentina over the Falkland Islands. The British formed a pool of twenty-eight reporters to cover the entire force of 28,000 soldiers. In addition, the British Ministry of Defense checked all stories for combat information before releasing them. This plan was similar to the one used by the Reagan administration in Grenada and by the Bush administration in Panama.

Grenada. In 1983, U.S. troops invaded Grenada after a coup overthrew that country's president, Maurice Bishop. Bishop had been known as an anti-American leader who allowed Soviet and Cuban advisers into his country. However, just before the coup, his attitude toward the United States appeared to become more friendly. The coup leaders may have ousted him to return the country to a more anti-American posture. Grenadian soldiers loyal to coup leaders executed Bishop and several members of his cabinet. The Organization of Eastern Caribbean States (OECS) believed that the violence in Grenada threatened the security of the region and voted to intervene by force to restore peace and order to Grenada if the United States would assist them. On October 25, President Reagan announced that the United States was responding to the OECS request by sending U.S. troops to the island.

Soon after the invasion, the first of the 600 American medical students studying in Grenada were evacuated. The U.S. invasion force, which eventually numbered more than 6,000, captured 638 Cubans and found warehouses stacked with Soviet and Cuban weapons. The Defense Department reported that the arms were "far above what any island this size needs for self-defense." (Grenada is the smallest independent nation in the Western Hemisphere, with a population less than 100,000 and a land area about twice the size of Washington, D.C.)

The press reported the military's account of these events but could not confirm the facts because the Pentagon prohibited reporters from even getting near Grenada. All media coverage was handled from Barbados, an island nearly 200 miles northeast of Grenada. For two days, the Department of Defense did not allow any independent reporting from Grenada. The military claimed that these restrictions were for the correspondents' safety while the fighting continued.

When the U.S. military finally lifted the press ban, it flew a small pool of reporters to Grenada. These correspondents took their stories back to Barbados to share with other reporters there. These reports were the first independent stories to emerge from Grenada. A regular transport of reporters then began; eventually, more than 600 reporters reached the island and were able to file their stories.

The press protested the restrictions, claiming that they were unfair and that the American public should have the benefit of independent reporting and not be dependent solely on the government for information. Military leaders countered, arguing that secrecy was necessary to protect American citizens on Grenada and the military operation. In an effort to reach a compromise between the military and the media, the Reagan administration appointed a commission to study media coverage during the Grenada invasion and in the future. Known as the Sidle Panel after its chair, Major General Winant Sidle, the commission made these recommendations:

- The military should plan for press access as part of its operational planning.
- When pooling of the news media is the only feasible means of coverage, the military should provide for the largest practical press pool and provide full press access as soon as possible.
- Members of the media who are granted access to military operations should voluntarily comply with security guidelines. Violators would be excluded from further coverage of the operation.
- The military should provide sufficient equipment, transportation, and personnel to assist correspondents in covering the operation.
- The military should carefully consider the media's communications needs. But these must not interfere with combat and combat-support operations.
- To improve understanding and cooperation between the media and the military, both sides should participate in programs of instruction, meetings, and visits by military personnel to news organizations.

The panel's recommended system of "combat-correspondent pool" reporting would allow a handful of physically fit reporters to be taken to combat zones within hours of the first fighting. They would provide press coverage until other members of the media could arrive. By October 1984, the Pentagon announced the formation of a Department of Defense media pool. Major news organizations signed up, wanting to provide the first news reports from any military conflict. News pools, which had been used in Grenada, were tested again in the 1989 invasion of Panama.

Panama. The U.S. invasion of Panama was the result of years of conflict with that country's leader, General Manuel Antonio Noriega. For some time, the U.S. government tried to oust Noriega from power because of his continual disregard for democracy. Over the years, Noriega and his supporters were able to force out of office presidents they did not like. In 1988, two federal grand juries in the United States indicted Noriega on drug smuggling charges. Later that year, the U.S. government imposed economic sanctions against Panama to try to force him out. American banks were forbidden to release money to the Panamanian government, and the United States suspended trade preferences, foreign aid, and fees due to Panama for public services such as police protection, street lighting, and road repairs near the Panama Canal. In late 1988, the Reagan administration tried unsuccessfully to negotiate an agreement with Noriega, whereby the general would resign as military commander and the United States would drop the drug charges. Noriega stalled on making a decision while he held presidential elections he had earlier promised. However, Noriega's hand-picked candidate lost to opposition candidate Guillermo Endara by a margin of three-to-one. In response, Noriega ignored the election results, cancelled the vote, and installed his own president.

Frustrated with Noriega's refusal to leave Panama, President Bush sent U.S. troops there in 1989 to capture the dictator and install the democratically elected opposition leaders. After several days in hiding, Noriega turned himself over to U.S. officials and was brought to Florida to be tried for drug trafficking. Guillermo Endara announced that he was now president of Panama.

As in Grenada, the first press pools were not flown into Panama when the fighting began. When these journalists finally arrived in Panama City after a delay of five hours, their military escorts barred them from witnessing the fighting. Nonpool reporters had been expected to replace the pools and provide independent coverage after the first day of fighting. When these reporters arrived, they were confined to a military base. The reporters were initially denied access to a detention area for Panamanian prisoners and prohibited from photographing damaged helicopters or the coffins of U.S. troops killed in combat.

After the invasion, the Pentagon again studied media coverage of military operations. This study resulted in seventeen recommendations stressing the importance of media coverage during wartime and calling for less military oversight of the press. The report recommended that all plans for military operations include media pools to accompany U.S. forces in the earliest stages of the fighting. Again, both the media and the Pentagon hoped that these pool arrangements would allow journalists to witness and report the beginning of military conflicts without jeopardizing U.S. lives or security interests.

THE PERSIAN GULF WAR

In July 1990, Iraq accused its neighbor, Kuwait, of stealing from an Iraqi oil field and driving down the price of oil by violating the regulations set by the Organization of Petroleum Exporting Countries (OPEC) and producing more than its quota. In August, Iraqi troops invaded Kuwait, taking over the country and its oil fields. Within days, the United States ordered a naval force, warplanes, and combat troops to the Persian Gulf region. Nearly 500,000 U.S. soldiers landed in Saudi Arabia by the end of 1990, joining armed forces from twenty-seven other nations.

The United Nations Security Council condemned the invasion, imposed a trade and financial embargo on Iraq and occupied Kuwait, and demanded that Iraq release all foreigners that it was holding hostage. The economic sanctions were designed to prevent new shipments of arms or equipment to Iraq and to prevent Iraq from selling oil. The UN authorized its members to enforce the sanctions by inspecting ships in the Persian Gulf and to "use all necessary means" to make Iraqi troops withdraw after January 15, 1991.

Iraqi president Saddam Hussein released all foreign hostages in December, but peace talks to bring about a withdrawal from Kuwait failed. On January 16, 1991, allied forces began to bomb targets in Iraq. Iraq responded by firing Scud missiles at Israel, which had not sent any troops or equipment to the allied forces, and at Saudi Arabia, where most of the allied troops were stationed.

On February 24, 1991, President Bush ordered the U.S.-led international forces to attack Iraqi troops on land. Within 100 hours a cease-fire was declared. Thousands of Iraqi troops were killed in combat. The Kuwaiti ruler, Emir Jabir Ahmed Sabah, returned to his now liberated country, promising to reestablish the Kuwaiti Parliament, which he had suspended in 1986. In Iraq, groups opposed to the government began an uprising to overthrow Saddam Hussein, but their efforts were unsuccessful.

In April, Iraq accepted the UN cease-fire resolution, which required Iraq to destroy or dismantle all chemical and biological weapons and all ballistic missiles with a range longer than ninety-five miles. The UN resolution also forced Iraq to accept inspection of its military installations, remove its nuclear fuel, use oil revenues to compensate countries damaged by its invasion of Kuwait, and help find missing Kuwaitis and other victims of war. The agreement also continued the arms embargo to prevent Iraq from obtaining new weapons or spare parts for old ones.

THE PRESS IN THE PERSIAN GULF WAR

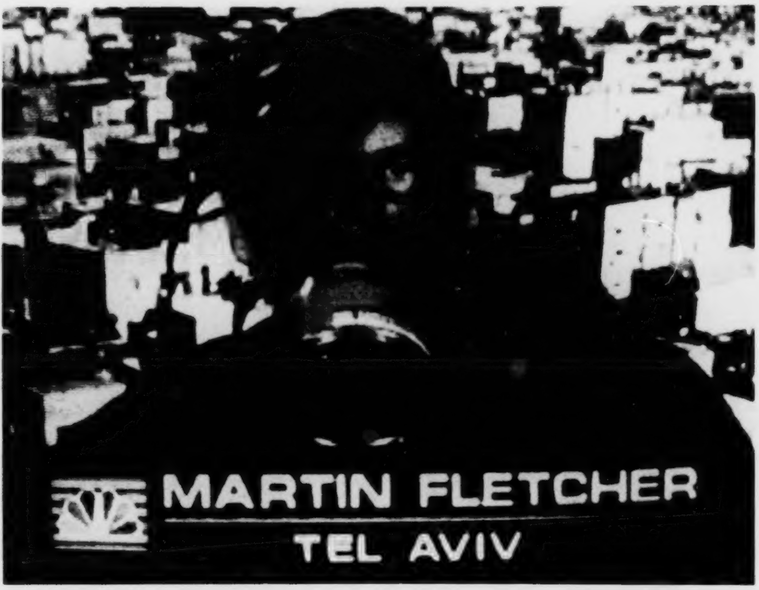
When President Bush first ordered U.S. troops to Saudi Arabia, reporters followed. The Department of Defense activated its National Defense Media Pool to get Western reporters into Saudi Arabia to cover the buildup, and by December, nearly 800 reporters had entered the country. They all filed their stories independently to their own news organizations. After President Bush ordered more troops to the Gulf region in mid-November, the Pentagon prepared its media ground rules in the event of war. The first published guidelines included using the pool system, which would eventually be relaxed to allow open coverage of the war. However, when the final guidelines appeared, the references to open coverage had disappeared.

When the first bombing runs were made, reporters who were still in the Iraqi capital of Baghdad described the scene. Many Americans stayed glued to their television sets, listening to the live accounts of bombing and viewing maps of the region. The Iraqi government soon ordered journalists to leave Baghdad but allowed Cable News Network (CNN) reporter Peter Arnett to stay. Iraqi officials censored Arnett's

CNN LIVE
Cleared by Iraqi Censors
Peter Arnett
CNN Reporting
Baghdad, Iraq

CNN/1991

The Persian Gulf War was one of the first military conflicts in which reporters used satellite technology in the battlefield. Such instantaneous communication proved troublesome for military officials who had little control over reporters with portable satellite dishes, mobile phones, and fax machines.



Bob Vergis/NBC News

During the first week of the Persian Gulf War, television networks provided up-to-the-minute, around-the-clock news, occasionally bringing frightening images into the homes of the American viewing public. Many watched nervously as NBC anchor Tom Brokaw urged Tel Aviv correspondent Martin Fletcher to put on his gas mask as Iraqi missiles—possibly armed with chemical weapons—struck Israel.

reports, and he saw only what the Iraqis wanted him to see. Some Americans believed that Arnett was being used by Iraq for propaganda purposes. General Norman Schwarzkopf, commander of the U.S. forces, charged that CNN was "aiding and abetting an enemy." Eventually, Arnett was ordered by the Iraqis to leave Baghdad.

Press Ground Rules. The pool system accounted for most of the reporting that occurred after the first bombing runs. Pools of six to ten reporters were formed to allow some correspondents, under military escort, to talk with troops in Saudi Arabia. Only about 150 reporters, photographers, and technicians were included in these pools. These reporters could not use their own vehicles in the battlefield and could not carry satellite telephones, which could have allowed them to communicate directly with their offices back home. They could only go where they were taken by military escorts, who were with the reporters at all times.

The escorts could stop interviews or photography if they believed the reporters were in danger of discussing any information off-limits to the press. Among the forbidden topics were the size and location of allied forces, the details of future operations, and information on missing or downed airplanes or ships while search and rescue operations were under way. According to the Pentagon, these restrictions were meant to prevent Iraq from learning vital information via the American media and to protect allied troops.

The Gulf War rules also required a military escort to be present when reporters interviewed or photographed wounded soldiers. Such reporting required the consent of the patient, doctor, and commander. The press was barred from recording military personnel in agony or severe shock and from filming patients suffering from severe disfigurement or undergoing plastic surgery. And, reporters were not allowed to interview or photograph psychiatric patients.

Military public affairs escorts who accompanied the journalists cleared stories and could require reporters to rewrite them. Department of Defense spokesman Pete Williams defended this system, saying, "The goal of the system isn't to deprive anyone of news. It's simply to discourage information that would jeopardize military operations and endanger human lives." Furthermore, Williams said that these restrictions were not censorship because the Pentagon could not compel journalists to withhold a story. The Defense Department said that only security information would be censored and that it would not withhold material "just because it is embarrassing or contains criticism." These security reviews reversed the practice in Vietnam of trusting reporters to comply with military guidelines and expelling them if they broke the rules. Only a handful of reporters lost their accreditation in Vietnam for violating security rules.

After approval, reports and photographs were sent by the military to the press headquarters in Dhahran, Saudi Arabia, where they were shared with nonpool correspondents. The nonpool journalists could not talk to troops at the front because the battlefield was classified as "top secret."

Of the 1,351 stories written by the pool reporters, five were sent to Washington to be reviewed by top military authorities. Four were cleared within a few hours, and the fifth, which dealt with intelligence procedures, was changed after a phone call to the reporter's editor. The first stories written about the F-117 stealth fighters were sent to the planes' home base in Nevada for clearance.

Violating the Pentagon's Rules. The Pentagon said that reporters who went to the front by themselves outside of the pool arrangements would lose their media credentials. Pete Williams defended the system, arguing that pools were the only way to manage the 1,600 reporters in the Gulf region. He insisted that pool coverage during the ground war was necessary because, unlike previous conflicts, reporters could not meet up with troops on their own when the ground units were moving so rapidly. To cover a unit, the reporters had to move with the soldiers. Williams said the military could accommodate small groups of reporters that they knew were coming but not large numbers who arrived without notice.

Some military leaders contended that getting reporters to the front was often a problem because ground-force commanders were unwilling to accept them or because of difficulties in arranging equipment, transportation, and communications for the journalists. However, some field commanders urged correspondents to join divisions by getting around the pool system and military rules if necessary.

Some correspondents who disregarded the military's rules were able to cover events that the pool reporters and their colleagues in Dhahran missed. For example, ABC's Forrest Sawyer covered the war with Saudi and Egyptian forces. As a result, ABC was the first network to show Iraqi soldiers deserting to allied troops and the first to air pictures from the front lines. Sawyer was also the only journalist to accompany a bombing mission. CBS correspondent Bob Simon, who disobeyed the military restrictions and covered the war on his own, got exclusive film footage of a Marine base that was shelled by Iraqi artillery. However, he and his three-man CBS crew were captured by the Iraqis at the Kuwaiti border in the first days of the war. They were released in Baghdad after six weeks of captivity.

Some journalists violated the rules by going to Khafji, Saudi Arabia, where the first significant land battle took place. Because no pool reporters were allowed to witness the fighting, these journalists

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CBS correspondent Bob Simon disobeyed military restrictions and went into occupied Kuwait at the start of the war to get exclusive film footage of a Marine base damaged after an Iraqi attack. Simon and his crew of three were captured by Iraqi soldiers at the Kuwaiti border and held for six weeks.

provided the only eyewitness accounts and photographs of the battle apart what from the military supplied. The journalists who circumvented the pool system were arrested by military police and ordered to return to their hotels. During the war, other reporters who were caught working outside the pools were arrested or detained as well. One reporter had his credentials temporarily taken away, but no reporters were permanently barred from reporting on the war.

Pentagon-Supplied Information. In the Persian Gulf, the Pentagon was prepared to fight a protracted war involving thousands of American soldiers, possibly on the scale of Vietnam. Televised coverage of the Vietnam War was often blamed for the public's growing disapproval of the war. The military in the Gulf, however, faced the challenge of dealing not only with televised coverage but live, instant reports as well. Live reports from the battlefield could supply vital details to the enemy, especially if aired on a global network like CNN. In addition, these initial reports were likely to be unverified and perhaps false. Faced with this situation and having learned from its experience in Vietnam of the power of "positive public relations," the Pentagon developed a plan for dealing with the press in the Persian Gulf that would work to the military's advantage. For example, before the fighting began, the Pentagon flew nearly 1,000 reporters to the region to spend up to four days with military units from their hometowns. These government-sponsored trips produced positive publicity and upbeat media coverage immediately before the war. Such coverage bolstered support back home for the war.

During the war, the military controlled much of the news by supplying information through daily briefing sessions with reporters. At these briefings, a senior military officer would give skeletal details to the press about what had happened on the battlefield that day. The briefers would not give rough estimates of Iraqi casualties or combat readiness, as had been done in Vietnam. However, the briefings included many statistics such as the number of missions flown or Scud missiles fired. The military also provided the press with film footage from the most successful missions showing actual missiles as they sped to their targets. These dramatic shots included two "smart" bombs that attacked a Scud missile bunker and another bomb that destroyed an Iraqi military headquarters after entering the building through an air shaft.

At the start of the war, briefings were often given by inexperienced, lower ranking officers. When members of the press complained about the lack of information in these briefing sessions, higher ranking officials stepped in. Commanding General Norman Schwarzkopf and his subordinate commanders gave many interviews, and Schwarzkopf and General Colin Powell, the Chairman of the Joint Chiefs of Staff, often gave press briefings.

Preparation for the daily briefings began at the Pentagon each morning where public affairs officers assembled questions that members of the press were likely to ask. Throughout the day, these officers added more questions, including inquiries from journalists who regularly cover the Pentagon. At 2:00 p.m. each afternoon, the public affairs officers would stage a mock briefing with the briefer for that day, often Lieutenant General Thomas W. Kelly. These rehearsals gave briefers the opportunity to practice responding to questions from the press.

When the ground war began, the military imposed a total news blackout. The Pentagon announced that it would not release any information to reporters about the campaign for an undetermined period of time and that television footage would have to clear two sets of military censors. However, when it became apparent that the fighting was going well, officials relaxed their blackout less than twelve hours after it had begun. After being delayed for at least ten hours, pool reports from correspondents traveling with U.S. troops were sent to the press headquarters in Saudi Arabia. Soon film footage from the front was available from foreign television crews, and the requirement for two layers of censorship was lifted. Much of the information about the beginning of the ground war was provided by General Schwarzkopf, the commander of U.S. forces in the Gulf. He held a briefing to break the news blackout and to tell the press

LOSSES
EFENSE

Department of Defense

Reporters covering the Persian Gulf War got most of their information from daily briefing sessions conducted by military officers such as General Colin Powell. The briefers prepared for questions by practicing their responses beforehand during rehearsals staged by their staffs.

that the allies were having "dramatic success." Many reporters were thankful for his openness about the operation and for his easy-to-understand briefing style. He explained the allied strategy, including a surprise attack, with color-coded maps.

By the end of the land war, the pool system was beginning to fall apart. Some pool reporters, who were angered when transmission of their stories was delayed by military censors, began to file stories directly to their newsrooms back home. More nonpool reporters began to violate Pentagon rules by going into Kuwait on their own to witness American forces liberating that country. A nonpool reporter, CBS's Bob McKeown, was the first American journalist to reach Kuwait City and report its liberation.

PRESS COMPLAINTS

Just as in Grenada and Panama, members of the press protested the military's control of the news in the Persian Gulf. They said that the press could be trusted to withhold vital information for security reasons and that it should be allowed to independently cover military conflicts. They cite the experience of Vietnam, where about 2,000 journalists covered the war and agreed to the military's ground rules about what not to report. Only a handful of security violations occurred during that war. Journalists argued that fears of the press overrunning the troops and interfering with military operations in the Gulf were unfounded. Many reporters believed that the public had a right to know more information about the war than the military allowed the press to print or air.

Referring to the press coverage of the Persian Gulf War and restrictions on independent reporting, Burl Osborne, publisher of the *Dallas Morning News*, complained, "[Secretary of Defense] Cheney described it as the best-covered war ever. We described it as the worst coverage ever."

Another reporter who objected to the media restrictions was retired Army Col. David Hackworth, who was writing for *Newsweek*. "I was very unhappy with the military's paranoia and their thought police who control the press," he said. "Everything was spoon-fed. We were like animals in a zoo, and the press officers were the zookeepers who threw us a piece of meat occasionally. I had more guns pointed at me by Americans and Saudis who were into controlling the press than in all my years of actual combat."

Former CBS anchor Walter Cronkite wrote in *Newsweek* magazine that the military's rules were unnecessary and prevented Americans from seeing and hearing "the full story of what their military forces are doing." He wrote, "It is drummed into us, and we take pride in the fact, that these are 'our boys (and girls),' 'our troops,' 'our forces' in the gulf. They are, indeed, and it is our war. Our elected representatives in Congress gave our elected president permission to wage it. We had better darned well know what they are doing in our name."

Disrupted Interviews. Pool reporters, who were able to cover the troops, complained that military escorts interfered with the filming or interviewing of U.S. soldiers. Journalists claimed that the mere presence of public affairs officers during interviews prevented troops from saying anything substantial and that escorts frequently interrupted questioning deemed inappropriate. Two reporters, Susan Sachs of *Newsday* and Carol Rosenberg of the *Miami Herald*, were barred from a marine unit because they asked questions that military officers said were "rude," although the reporters say they were only being persistent in trying to gather information about the unit's operations. In another case, pool reporters aboard the aircraft carrier *John F. Kennedy* were handed a list of suggested questions to ask pilots returning from their first bombing runs.

Censorship. The media also argued that military escorts deleted material for reasons not related to security. For example, Frank Bruni of *The Detroit Free Press* had written that pilots were "giddy" after early bombing runs. Press officers changed the word to "proud," but agreed to compromise by using the words "pumped up."

Members of the press said that the limited information provided in the daily briefings was also a form of censorship. To some reporters, it made no sense to withhold information on which Iraqi sites had been bombed when Iraqis undoubtedly knew which buildings were destroyed. Likewise, many reporters contended that the blackout at the start of the ground fighting seemed unrelated to security. They argued that general information about such a massive attack would not provide the Iraqi military with any details that could be used against allied forces.

Sanitizing the News. The media argued that the Pentagon tried to sanitize the news so that the public only learned positive things about the war, such as smart bombs accurately destroying enemy targets. The military routinely denied press requests from reporters to accompany bombing raids or to talk to the crews of B-52s, which carried less accurate bombs and might be more likely to miss their targets and destroy civilian buildings or shelters. During the fighting, few television pictures of wounded or dead Americans or Iraqis were permitted to be transmitted. Another example of the Pentagon's unwillingness to report anything negative was its initial refusal to acknowledge the capture of U.S. pilots who had already been shown on Iraqi television.

Delayed Reports. Reporters accused the military of delaying transmissions so that information was outdated by the time it was printed or aired. Sometimes the delay was due to the security review, although journalists claimed that their reports were frequently held up two to three days. Carol Morello of *The Philadelphia Inquirer* said that her reports went through four levels of censorship before being transmitted. *New York Times* reporter Philip Shenon said that the military delayed transmitting his stories seventy-two hours, and that when reporters volunteered to file the news themselves by telephone, "we were given the ludicrous argument that we couldn't leave the base because there was a terrorist threat. They were supposed to help us file our story, but there seemed to be every desire to hinder in getting the work out."

Inaccurate Information. Reporters complained that the military deliberately gave them inaccurate information to further political purposes and thus deceive not only news organizations but also the American public. For example, military briefers played up the role of Arab forces during the battle at Khafji and played down the fierceness of the Iraqi resistance and the role of U.S. marines. However, some reporters who reached the battlefield claimed that marine helicopters, artillery, and

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tactical fighters played important roles in the fighting. The Pentagon also released to the press false plans for an amphibious assault against Iraq. These plans, reported in the American media and presumably read by Iraqi officials, were designed to mislead the Iraqis about U.S. strategy.

The Pool System. The entire pool system came under fierce attack by the press from the very beginning of its formation. Several news organizations, including *The Village Voice, The Nation, Harper's, In These Times, The Guardian, The Progressive, Mother Jones, L.A. Weekly, The Texas Observer,* Pacific News Service, and Pacifica Radio News, filed a lawsuit to protest their reporters' inability to cover the fighting first-hand. They were represented in court by the Center for Constitutional Rights, which charged that the Pentagon's restrictions violated the media's First and Fifth amendment rights and discriminated against them. However, the suit was dismissed by a judge who said that the issues raised by the lawsuit were "too abstract and conjectural."

Even pool reporters protested the system, contending that the number of actual reporters at the front was small because the pools included camera operators, technicians, and photographers. They argued that many pools did not even get to the front lines. Instead, they visited ships in the Gulf or airbases well behind the front or simply stayed in their hotels in Saudi Arabia.

THE PENTAGON RESPONDS

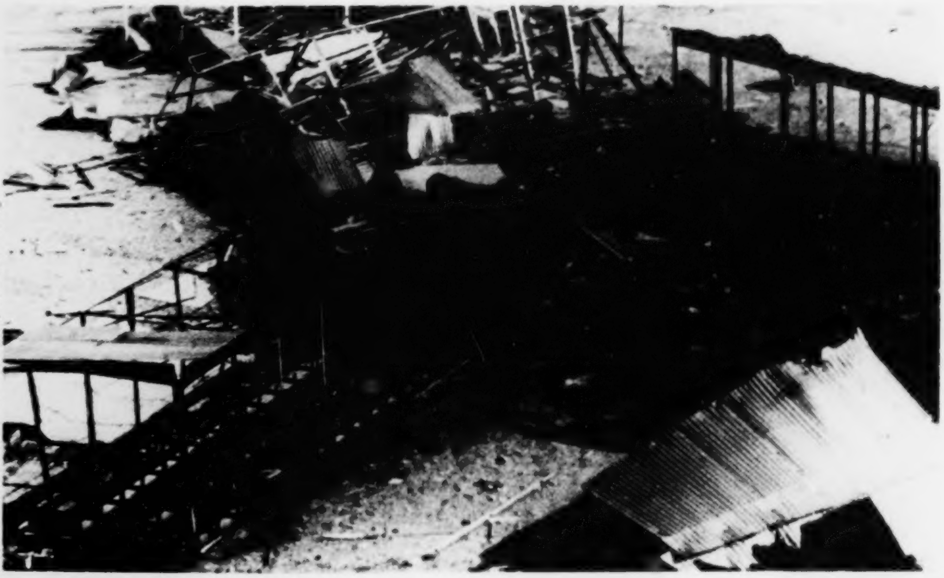
Some military officials admit that there were problems with the way the press was treated in the Gulf War. Spokesperson Pete Williams wrote in *The Washington Post,* "We need to teach public affairs personnel how to do their jobs so that reporters won't feel their interview subjects are intimidated." He added, "I think the presumption in the future should be against pools." Williams said the pool system produced headaches for the government and the press.

Williams defended other aspects of the Pentagon's media plan, which he said were necessary to accommodate a large number of reporters and a fast-moving military operation. He said that complaints about censorship were misleading because the ground rules left the decision to print or broadcast any information with the journalists and not the military reviewers. He commended the press coverage and said that the military had an obligation to let reporters witness the war. Williams argued that the pool system allowed such coverage because pool members were with every division and some of them provided reports from ships or airbases.

After the war, several news executives wrote to Defense Secretary Dick Cheney to complain about the military's role in controlling the news. One group of seventeen executives from major news organizations prepared a report detailing the complaints of the press and proposing principles for future war coverage. The report called for ending news pools within thirty-six hours after the start of a conflict and abolishing security reviews by military personnel. The journalists asked that the military allow reporters to cover all major units and assist reporters with transportation and the transmission of articles.

Secretary Cheney defended the press rules, saying, "Bottom line is you've got to accomplish your mission. You've got to do it at the lowest possible cost in terms of American lives. And that takes precedence over how you deal with the press." However, he agreed to talk to news executives about how to improve media access during future conflicts. Also, news executives agreed to meet with Pete Williams to develop new guidelines for war coverage, although they fear that the pool system will continue in some form, especially since public opinion sided with the Pentagon in its efforts to control the press during the Gulf War.

Opinion polls showed that 80 percent of the public supported the government's restrictions on the media, and a majority said they would support even stricter rules. This public support for tight government control over the press is a dramatic change from the Vietnam and Watergate eras when the public relied on an unrestricted press to serve as a watchdog for government coverup or corruption. Some media experts attributed the change in attitude to broad public support for the Persian Gulf War and concern



Department of Defense USAF photo by SSGT Dean Wagner

After the Persian Gulf War, many reporters complained that the Pentagon had sanitized the news by only providing information about, and videos of, U.S. smart bombs, which are accurate and more likely to hit their targets. Some claimed that there were many "misses" that the American public never saw.

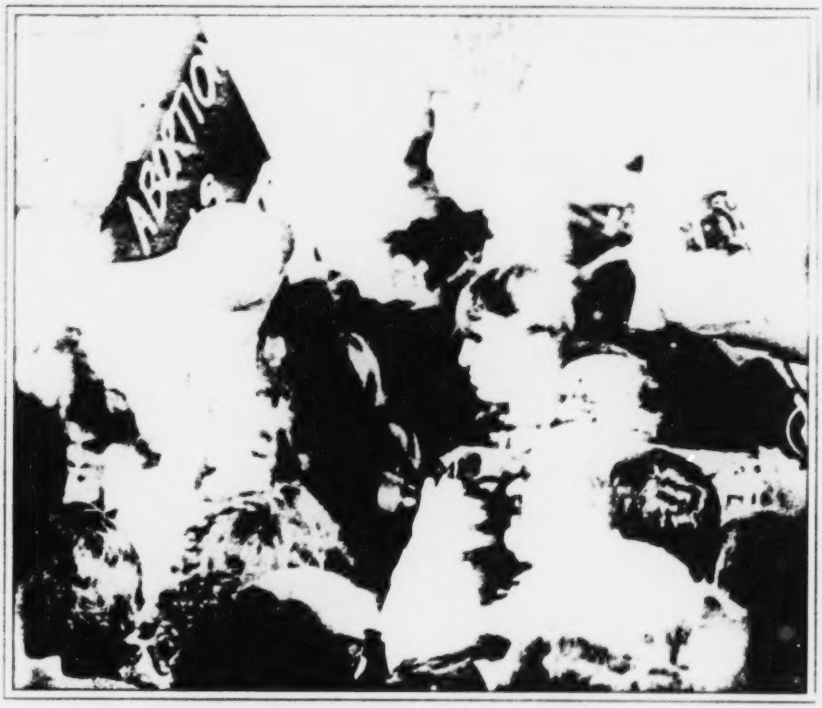
that negative reporting could have undermined the morale of U.S. troops and encouraged Iraqi soldiers. Others believed that the live coverage of press briefings gave some Americans a negative impression of the press because reporters asked questions that could be seen as insensitive. Some citizens charged that the reporters were too pushy and too eager to find negative news and were seemingly intent on undermining the war effort.

In response to their negative experience covering the Gulf War, some reporters have threatened not to cover the next military operation if the Pentagon insists on using press pools. They hope that if major news organizations boycott military press pools, then the Pentagon will change the system when it is unable to get positive, or any, publicity about its actions. However, most journalists believe that such cooperation among the press is unlikely and that all major news organizations will participate in the pools so that their newspapers, magazines, and television and radio companies are not left out when the fighting begins.

Media executives hope that they will be able to convince Defense Department officials that the pool system should be limited and that open coverage of war should be the norm. However, during the last three conflicts, the military has used pools to control information from the war zone to protect the interests of U.S. operations. Some form of the system is likely to continue during the beginning of any future conflict for security and safety reasons.

The struggle between the military and the media over access to war information is nothing new. Throughout the history of U.S. press coverage during wartime, there has been an attempt to balance the need for a free press with the safety of military personnel. Future military conflicts will likely further define the roles of the media and the Pentagon in getting battlefield reports to the American people.

INTEREST GROUPS



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CHAPTER 7

INTEREST GROUPS

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Freedom of association is protected by the First Amendment. Americans have the right to join together for a common purpose and form interest groups. Using their freedom of speech, these Americans can also lobby the government, or try to persuade it to act in their favor. Through political action committees (PACs), interest groups can exercise even more influence in the political process by contributing campaign funds to candidates and parties. The articles in this chapter examine the influence of interest groups on American politics through lobbying and political action committees (PACs).

Nancy M. Neuman, a former president of the League of Women Voters, distinguishes between special interest groups and public interest groups. She argues that, while some groups are only concerned about their own narrow interests, others are truly committed to the public good. She is concerned that money gives some groups an unfair advantage in lobbying, but she reminds all citizens that they are lobbyists too and that their voices still count.

Senator Malcolm Wallop agrees with Neuman that citizens are lobbyists, which he defines as anyone with an interest in legislation. Indeed, he says that the "lobbyists" he listens to most are constituents from his home state of Wyoming. The most effective lobbying by an organization, the senator argues, is when it uses a legislator's constituents to present its arguments. Senator Wallop believes that lobbying gives every citizen the opportunity to participate in making laws.

James Jay Baker, the executive director of the lobbying arm of the National Rifle Association (NRA), one of the most powerful lobbies in America, also believes that the secret to effective lobbying is people, not lobbyists. The NRA's "army," says Baker, is not its lobbying staff but its almost 3 million members. Baker also points out that an effective lobby provides legislators with reliable and accurate information.

Political action committees are perhaps the most controversial method an interest group uses to influence public policy. Senator David Boren is adamantly opposed to PACs because he believes they corrupt the political process. Boren says that PAC contributions, which have grown tremendously, increase campaign costs and tend to favor incumbents—threatening to create a government of, by, and for the PACs, instead of the people.

But Thomas Berglund, the former chairman of AMPAC, the political action committee of the American Medical Association, argues that PACs allow citizens to be an active part of the political process. He maintains that PACs allow people of relatively limited means to pool their resources and compete on a more equal basis with wealthy people. To Berglund, PACs are Americans exercising their First Amendment rights, expressing the multiple interests of a pluralistic society.

This chapter's case study provides an in-depth look at the birth and evolution of a specific interest group, the National Association for the Advancement of Colored People (NAACP). Formed more than eighty years ago to advocate equality for black Americans, the NAACP was a response to nationwide violence against blacks. It worked to extend voting rights to blacks, end lynchings, and secure legal guarantees against discrimination. The NAACP is a powerful example of Americans using their freedom of association to secure a better life.

Alexis de Tocqueville, a French historian who toured the United States in the 1830s, commented that Americans "are forever forming associations." James Madison referred to such interest groups as factions. He worried about the "mischiefs of faction," but believed that, in a diverse society, the negative effects of any one faction would be counterbalanced by others through free and open debate. The First Amendment was Madison's way to protect interest groups—and control them.

Close Up Foundation/Renée Bouchard

David Hathcox

Nancy M. Neuman

is former president of the League of Women Voters, an organization that promotes voter participation and public education on a variety of political issues.

LOBBYING: THE GOOD, THE BAD, AND THE PINSTRIPED

If ever a profession needed a public relations makeover, it's lobbying. The very mention of the word conjures up distasteful images of pinstriped, cigar-chomping power brokers sneaking about the halls of power with money-stuffed briefcases and evil intentions.

The reason for public mistrust of lobbyists is that most people believe that lobbyists exert undue influence on the legislative process. Lobbyists—or at least the ones we imagine—are concerned not with producing legislation that serves the public good, but that serves the more narrow interests of the people who sign lobbyists' paychecks: the special interests.

However, it's not always that way. Lobbyists come in all shapes, sizes, and genders. They don't all operate in the shadows. And most importantly, they don't lobby just on "special interest" issues.

For example, the League of Women Voters has a complement of professional lobbyists and an army of volunteer lobbyists all working in the public interest on issues ranging from civil rights to taxes to the environment. That's hardly the stuff of which the popular image is made.

Whether a lobbyist works for a *special interest* or the *public interest* generally depends on whether you agree with his or her position. While most lobbyists couch their arguments in terms of the public good, it's their real motivations that don't always bear up well under close scrutiny.

WHY ALLOW LOBBYING ANYWAY?

If lobbyists have the capacity to distort the processes of government, why do we permit it? For one thing, lobbying is an exercise of the constitutional right to free speech. James Madison addressed the issue in his discussion of factions in *The Federalist Papers*. While recognizing the threat such narrow interests pose, Madison argued that in a large pluralistic society, creating a balance in the marketplace of ideas is preferable to suppressing the right to free speech.

But does that balance really exist? Frankly, no. In reality, there's a very real imbalance in the marketplace of ideas. The reason? Money.

LOBBYING AND MONEY

If you have money in Washington, you can afford a number of valuable weapons for your arsenal. You can afford the most expensive lobbyists, lawyers, and public relations experts. You can pay for computers, mailing lists, and fancy offices to help them do their jobs. You can buy television, radio, and newspaper ads to get public and congressional attention. You can publish books and leaflets to amplify your message. Money is a big advantage.

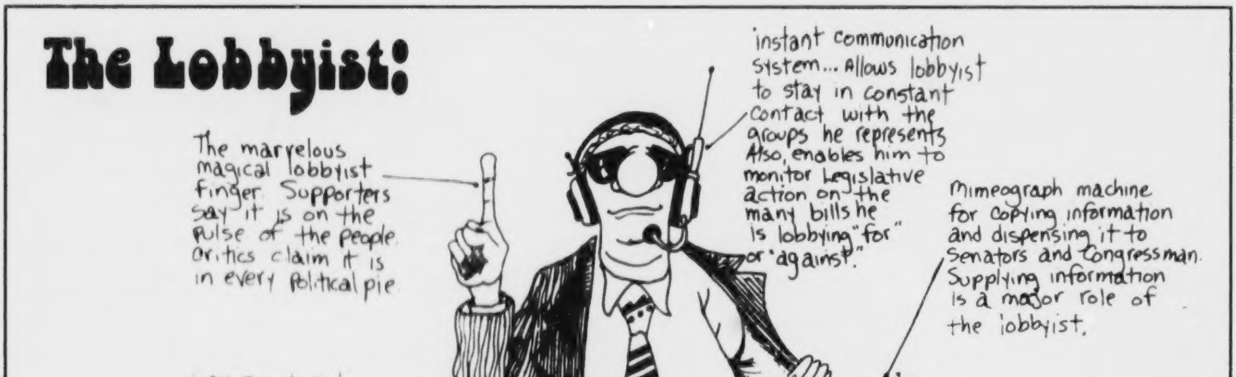
Also, the marked increase in the cost of running a campaign makes legislators much more susceptible to the persuasions of lobbyists who come equipped with money from political action committees (PACs). PACs are the fundraising arms of lobbying organizations, which distribute campaign funds to candidates and parties. You need not look far to find testimony to the influence of special interests with ideas to sell and lots of money to sweeten the deal.

That's why the government keeps track of who's lobbying Congress by requiring them to register and report on their activities. At least we now know who is spending what to lobby whom.

If the money were spread out across the political spectrum, then we'd have the balance that Madison sought. But it's not. Money has a way of clustering on one side of an issue, and over a range of issues. It tends to cluster on one side of the political spectrum.

WHAT ABOUT THE REST OF US?

It's not just big business and special interests that have lobbyists. There are public interest organizations like the League of Women Voters, civic associations, trade groups, student groups, church organizations, environmental groups, and many more mak-



The Lobbyist:

The marvelous magical lobbyist finger. Supporters say it is on the pulse of the people. Critics claim it is in every political pie.

instant commonication system... Allows lobbyist to stay in constant contact with the groups he represents Also, enables him to monitor Legislative action on the many bills he is lobbying "for" or "against."

Mimeograph machine for copying information and dispensing it to Senators and Congressman. Supplying information is a major role of the lobbyist.

Grey pin-striped suit for the conservatives

Loud tie for the liberals

Credit cards. for wining and dining legislators. The "business lunch" is an excellent way to sound out politicians on issues, offer new perspectives and fresh information. It is also, an excellent way to get fat.

unseen in pocket: a list of 100 influential legislators who love baked stuffed lobster plus a guide to Washington's best restaurants.

running shoes to enable the eager lobbyist to get from one congressional meeting to another

The telephone! Perhaps, the greatest aid to the lobbyist since the invention of the campaign contribution.

lob·by·ist (lŏb'ē·ĭst) n. One employed to influence legislators to introduce or vote for measures favorable to the interest he represents.

Close Up Foundation/Peter

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ing their cases in Washington—all competing for Congress's attention.

Those lobbyists do more than just whisper in an elected official's ear. In many cases, they function as a resource for senators and representatives: gathering data, counting votes, cajoling the press, and sometimes even drafting legislation. My organization frequently works closely with members of Congress to draft bills and develop legislative strategies.

The fact is that Congress depends on the Washington lobbying community for its expertise on the issues. No member of Congress can learn the intricate details of every issue. Even congressional staffers are hard-pressed to master all aspects of an issue. Between the number of issues and the weight of the congressional mail, the workload is just too great. So Congress often turns to lobbyists for help. In this way, knowledge is power. And indeed, lobbyists do better when they have knowledge to sell. That's what citizen organizations like the League of Women Voters depend on. We can't afford to wrap our message in high-priced wrapping paper; it has to sell on its own merits.

YOU'RE A LOBBYIST, TOO

Madison's balance may be tipped, but it's not broken altogether. It's important to remember, too, that members of Congress pay a great deal of attention to what their constituents say. As former Speaker of the House Jim Wright said in his book, *You and Your Congressman*:

> With exceptions so rare that they are hardly worth mentioning, members of Congress positively do read their mail. Moreover, they are interested in its contents. The mood and tenor of the daily mail from home is a recurring topic of conversation in the rear of the House and Senate chambers or around the coffee cups in the dining rooms of the Capitol.

The power of the people cannot be ignored, but it can be overstated. While members of Congress remember who elected them, they also remember who paid for their campaigns. To be sure, the balance that Madison hoped for is missing. Narrow special interests are over-represented in Washington, and the result has been legislation that serves the interests of a very few at the expense of very many.

But the cynical cry that the people's voice is never heard is just plain wrong. The people can make their case—by letting public officials know where they stand, and by supporting public interest organizations that can help hold Congress accountable to the people who elected them.

Office of Senator Wallop

Senator Malcolm Wallop

(R-Wyo.) was elected to the U.S. Senate in 1976. He previously served in the Wyoming State Senate and the Wyoming House of Representatives.

A MEMBER OF CONGRESS LOOKS AT LOBBYING

Lobbying is an integral part of our system of government. It's been around as long as legislators have, and at one time in the history of our country, lobbyists were referred to collectively as the "third house of Congress."

Registered professional lobbyists help to inform Congress and the general public about problems and issues. Lobbyists stimulate public debate, open a path to Congress for the wronged and needy, and inform Congress of the practical aspects of proposed legislation: whom it would help, and whom it would hurt; who is for it, and who is against it.

Although the term *lobbyist* often carries negative connotations, in the eyes of the legislator a lobbyist is someone who voices support for or opposition to a particular issue. Paid or unpaid, Washington attorney or hometown neighbor, a lobbyist is *anyone* with an interest in legislation. A lobbyist is not always the paid and powerful, but often the needy or the threatened. Any citizen with a concern about a particular issue can function as a lobbyist merely by contacting an elected official. Any person who writes a member of Congress expressing an opinion on an issue is, in effect, lobbying for a special interest. And, in my opinion, the "lobbyists" I listen to the most, and whose advice I seek most often, are the constituents from my home state of Wyoming.

In fact, a recent survey of legislators and their staffs found that lawmakers are influenced more by letters from individual constituents, press clippings from hometown papers, constituent surveys, and meetings with constituents than by lobbyists.

Be that as it may, Washington is filled with people who, as paid professionals, visit the offices of members of Congress with the intention of influencing lawmakers in some way. The how, when, and who depend upon the issue, the lobbyist, and the legislator. But as organizations seek to enact laws that suit their purposes, they must realize they are not alone in seeking the attention of Congress. There are nearly 20,000 lobbyists in Washington, an average of about thirty-five for each member of Congress. Lobbyists can be economists, association executives, lawyers, or publicists, yet they all have something in common: in their eyes, their issue is the most important and the most pressing.

Congressional committee assignments play a big part in determining a lobbyist's involvement with a particular member of Congress. Not only is it advantageous for a lobbyist to have a sympathetic ear, it is also advantageous to find someone who can do something about a particular issue. As a member of the Finance Committee—the Senate's tax-writing pencil and eraser—I am lobbied extensively by financial institutions, realtors, insurance executives, small businesses, and a wide array of other groups, all of whom try to preserve their special interests.

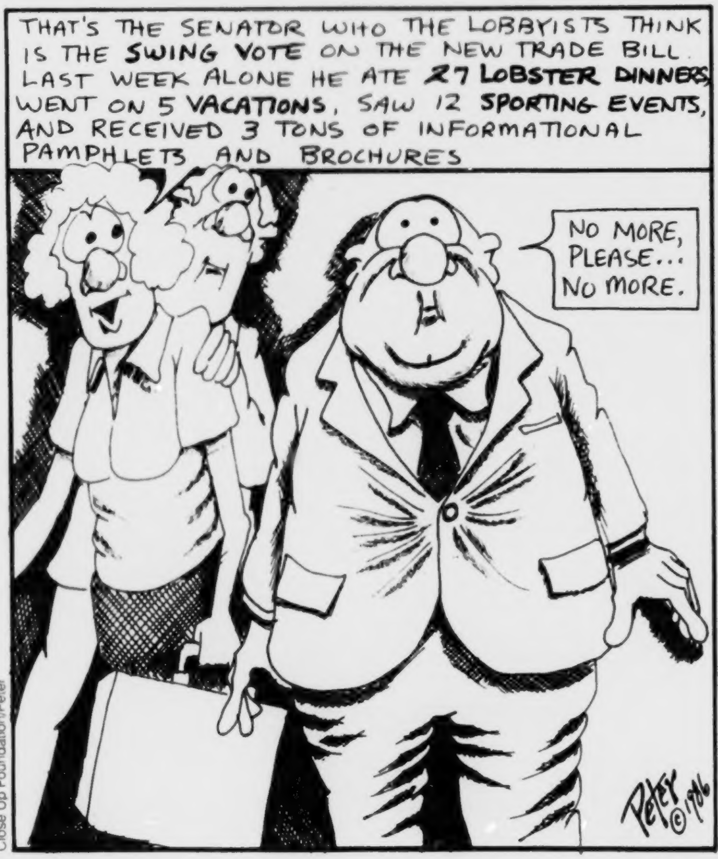
As a member of the Energy and Natural Resources Committee, I often hear from the oil and gas industry, the coal industry, independent drillers and refiners, and other energy interests. The list goes on. Lobbyists' contact with a legislator occurs throughout the legislative process—when a bill is first introduced, being considered in committee, or debated on the Senate floor—but it is when the committee is in the heat of a markup session (where they put certain things in the bill and take certain things out) that lobbyists are drawn to Congress much like moths to a light.

The most important point to be made is that, ultimately, legislators are responsible to their constituency. It generally does little good to lobby a member of Congress on an issue that would be detrimental to the lawmaker's home state. Instead, a lobbyist may ask members of his or her organization from the legislator's district to contact the member of Congress personally. That way, a lobbyist can "lobby" through the voice of a constituent, which, after all, is the most effective way to draw attention to an issue.

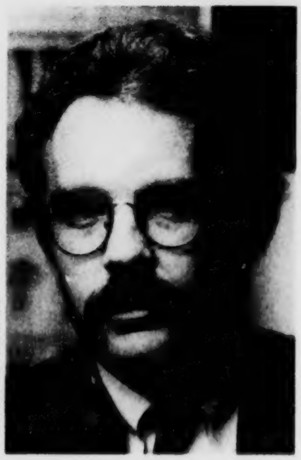
Although still sometimes portrayed as an evil influence, lobbying is a much "cleaner" profession than it was in the past. In prior decades, dollars were said to be passed under the table and votes bought and sold without a second thought. Today's lobbyists are much more accountable for their actions.

Professional associations and lobbying groups now use communication, education, and public relations techniques to support political and legislative objectives. For example, to tailor their services to new realities, the U.S. Chamber of Commerce now devotes more of its staff and budget to spreading the word than to twisting the arm. It has built a multimillion-dollar satellite communication network that beams news shows and issues forums to subscribers all over the country.

Today, a lobby's influence is directly tied to its candor, its honesty, and the quality of the arguments it is able to present to policymakers. The content and quality of a lobby's arguments are even more important these days, given the ever-increasing depth and complexity of the issues confronting our democracy—a democracy specifically designed to give every citizen the right and opportunity to participate in the process of making laws.


THAT'S THE SENATOR WHO THE LOBBYISTS THINK IS THE SWING VOTE ON THE NEW TRADE BILL. LAST WEEK ALONE HE ATE 27 LOBSTER DINNERS, WENT ON 5 VACATIONS, SAW 12 SPORTING EVENTS, AND RECEIVED 3 TONS OF INFORMATIONAL PAMPHLETS AND BROCHURES
NO MORE, PLEASE... NO MORE.
Peter ©1986

Close Up Foundation/Peter



National Rifle Association

James Jay Baker

is executive director of the Institute for Legislative Action at the National Rifle Association of America.

THE SECRET TO EFFECTIVE LOBBYING

A U.S. senator from Minnesota, the late Hubert H. Humphrey, once remarked that if he received five or ten letters from constituents on a single topic, he considered the response a landslide of public opinion.

On issues involving their Second Amendment rights, National Rifle Association (NRA) members often generate five or ten *thousand* letters or more to a U.S. representative, and many times that amount to a U.S. senator. More than all other factors, this consistently high level of citizen activism—a groundswell of grassroots political action in every county and parish in the country—has earned the 120-year-old NRA its perennial reputation as one of America's most influential lobbying organizations.

Opponents often mistakenly attribute the NRA's success to an alleged "stranglehold" on elected officials by an "army of high-paid lobbyists." But, as keener and more objective observers recognize, the NRA's "army" is not its lobbying staff, but its almost 3 million NRA members plus 65 million other gun owners nationwide: American men and women of every age, from every state and every walk of life, and representing every conceivable economic, ethnic, religious, and professional group.

This otherwise diverse collection of Americans shares a mutual interest in shooting sports and the defensive uses of firearms, as well as a genuine reverence for their historic right to own firearms. This right was ensured in 1791 by the Second Amendment to the U.S. Constitution and handed down through successive generations of Americans. Notably, Second Amendment rights, like those protected by the First Amendment, are exercised every day by these same millions. It's no wonder, then, that gun owners vigorously use their right of free expression to protect "the right to keep and bear arms" for themselves and future Americans.

A political cartoon once depicted a fictitious NRA lobbyist, frustrated by a hostile congressional committee member's obstinance, saying, "I see. Shall I put you down for a million postcards then, Senator?" A million postcards to a single senator may slightly exaggerate the NRA's ability to mobilize its members, but the cartoon makes an important point: what influences elected officials is not lobbyists, but *people*—because *people* vote on election day.

A review of two major political battles describes in real terms what

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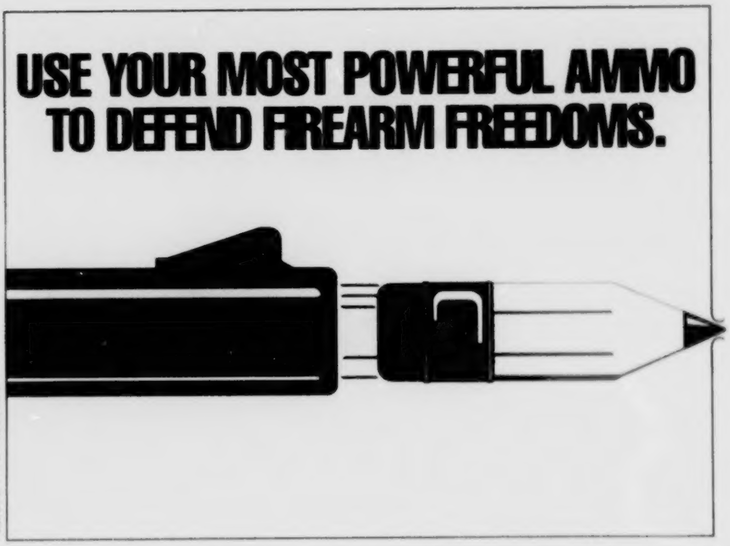


National Rifle Association

the cartoonist illustrated in jest: massive demonstrations of First Amendment freedoms can and do affect the legislative process.

In 1978, at the behest of groups opposed to Americans' Second Amendment rights, the federal Bureau of Alcohol, Tobacco, and Firearms (BATF) proposed regulations that, if enacted, would have had serious consequences for law-abiding owners of firearms. The NRA's membership, then fewer than 1 million strong, responded by sending 337,000 letters opposing the proposed regulations. Supporters of the regulations mustered 7,000 letters. Not surprisingly, Congress prohibited the regulations.

In 1986, popular will prevailed in the battle over S.49, the NRA-endorsed Firearms Owners' Protection Act (FOPA), a measure written to correct many injustices that had come to bear upon law-abiding citizens through government abuses of the Gun Control Act of 1968. During the heated debate over S.49, the bill's opponents used biased surveys to assure Congress that Americans wanted the bill defeated, that Americans overwhelmingly wanted more restrictions on ownership of firearms, not fewer.

But officials were told just the opposite by their constituents—in margins of as much as 95 to 1. The FOPA passed the Senate by a vote of 79 to 15 and by a 292 to 130 margin in the House of Representatives, and is the law today. What ultimately counted was the will of the people, and, as one U.S. representative put it, "the 'gun lobby' is *people*." Nothing could be more natural or appropriate in a free and democratic society.

The NRA didn't begin as a political action organization. In 1871, the NRA was formed to promote marksmanship and the various shooting sports. The NRA remains dedicated to these objectives today, as attested by our leadership in firearms safety and proficiency training programs, our contribution to national and state wildlife conservation efforts, and our work in promoting marksmanship competitions.

In the early 1970s, however, the NRA recognized that firearms restrictions, peddled as "moderate and reasonable" solutions to violent crime, had failed miserably. Yet these failures were being used to promote layer after layer of harsher restrictions at local, state, and national levels. Knowing that these measures would adversely affect only law-abiding Americans, the NRA established its lobbying division, the Institute for Legislative Action (ILA), in 1975. Today, the institute's full-time federal and state/local lobbyists, researchers, attorneys, and grassroots and communications staff track legislation at all levels of government, monitor trends in lawful and unlawful firearms ownership and use, analyze relevant sociological data, and communicate information on these and other subjects to our members and elected officials.

Just as our members depend upon the ILA for up-to-date reports on legislative affairs and the information they need to work effectively at the grassroots level, officials at all levels of government rely upon the ILA to compile the information they need to make educated decisions about firearms laws. Indeed, the NRA-ILA is one of the few lobbying organizations that *encourages* officials to study the language of legislative proposals alongside related empirical data to understand the effect such proposals would have on law-abiding American gun owners. Notably, the *Library Journal* has stated that "the American Library Association lobby and the National Rifle Association lobby are the only ones whose information was considered consistently truthful and reliable by legislators."

In 1976, the NRA formed its political action committee, the NRA Political Victory Fund (NRA-PVF), which operates under guidelines established by the Federal Election Commission. The NRA-PVF is supported through special contributions from NRA members; no corporate contributions are accepted. The NRA-PVF rates political candidates based on voting records, public statements, and responses to an NRA questionnaire, all focusing exclusively on firearms and firearms-related issues. Party affiliation is not a factor in evaluating candidates.

In recent years, the NRA-PVF has supported hundreds of candidates for national and state offices, with a high rate of success. In the last presidential election year, the PVF was directly involved in 1,360 campaigns, 84 percent of them successful—evidence that the NRA's positions and policies accurately reflect the viewpoints of the American people.

Since the formation of the ILA and the creation of the NRA-PVF, NRA membership has experienced its most rapid increase: from about 1 million in 1975 to almost 3 million today. This indicates that America's gun owners view the NRA's aggressive political role as a vital corollary to its original and continuing objective of promoting safety and proficiency in the sporting and defensive use of firearms. The commitment of the NRA's members to its goals—their goals—has made the NRA one of the nation's foremost membership organizations, and one of America's most formidable lobbying groups.

POLITICAL ACTION COMMITTEES: TWO VIEWS

Office of Senator Boren

Senator David L. Boren

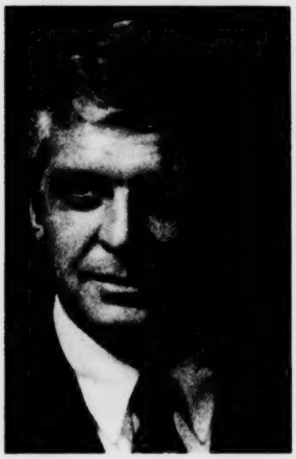
(D-Okla.) was elected to the Senate in 1978 after serving as governor of Oklahoma.

GOVERNMENT OF, BY, AND FOR THE PACS

The way that we finance election campaigns in this country cries out for change. The mushrooming influence of special-interest political action committees (PACs) is beginning to threaten the basic concept of grassroots democracy. As former Solicitor General Archibald Cox stated: "We must decide whether we want government of, by, and for the people, or government of the PACs, by the PACs, and for the PACs."

Most members of the House of Representatives received more than half of their campaign contributions from special interest PACs instead of from individual contributors in their home states.

In the past two decades, the influence of PACs has grown at an explosive rate. In 1974, there were 600 PACs in existence. In 1990, that number had increased to more than 4,200. In the same period of time,



Elson-Alexandre

Thomas Berglund

is former chairman of AMPAC, the political action committee of the American Medical Association. He has also chaired the Michigan State Medical PAC.

PARTICIPATING IN THE POLITICAL PROCESS

After an election, the nation lets out a collective sigh of relief as another frenetic campaign season comes to a close. It seems that each successive election involves more literature, more media advertising, and more television commercials. But apart from the constant barrage of information (and promises) from candidates, have you ever stopped to think that there is something more behind all the hoopla?

Political action committees (PACs) do. They recognize the need for people to band together so that they can be heard in the complex political world of today. More important, PACs encourage political participation far beyond listening to countless television spots or even casting a ballot on election day. PACs play a vital role in American democracy: they draw individuals into the system and enable citizens to be active in our political process.

The idea of groups of citizens joining together in political efforts goes back as far as the founding of the nation. James Madison, in writing his defense of the new Constitution, foresaw groups or "factions" as crucial to the balance of power in a representative democracy. He reasoned that if factions were encouraged to "multiply and grow," no single faction would gain too much

BOREN CONTINUED . . .

PAC contributions to congressional election campaigns grew from $12.5 million to $151 million.

In all of my election campaigns, I have followed a policy of not accepting PAC contributions. There are now only four senators left in the Senate who accept political contributions only from individual citizens.

It is frightening to consider the impact that PAC contributions will have on the political system and on the cost of campaigns if they continue to double every four years. When additional money is pumped into the system, it ends up being spent, and campaign costs soar. In 1976, a total of $115 million was spent for both Senate and House election campaigns. That amount has increased fourfold: in 1990, $445 million—nearly half a billion dollars—was spent for congressional campaigns.

The advantage that incumbents have over challengers is also a point of grave concern. In the Senate, PACs give to incumbents at a ratio of four-to-one over challengers; in the House, the ratio increases to an outrageous sixteen-to-one. Obviously, PACs are more interested in contributing to a member of Congress who will be around for a while—one whose vote they can influence by gaining access—than they are in contributing to an unknown challenger.

In addition, the growth in the influence of PACs further fragments our nation and its legislative bodies. It makes it increasingly difficult to reach a national consensus and holds our decisionmaking process hostage to the special interests that PACs represent.

PACs do not judge members of Congress on their overall record or personal integrity. PACs do not examine the candidate's record to see if it serves the national interest. Instead, PACs rate members of Congress solely on how they voted on bills affecting a particular interest group or single-issue constituency. Usually, the real decision about which candidate to support is made by the group's lobbyist and not by individual PAC contributors.

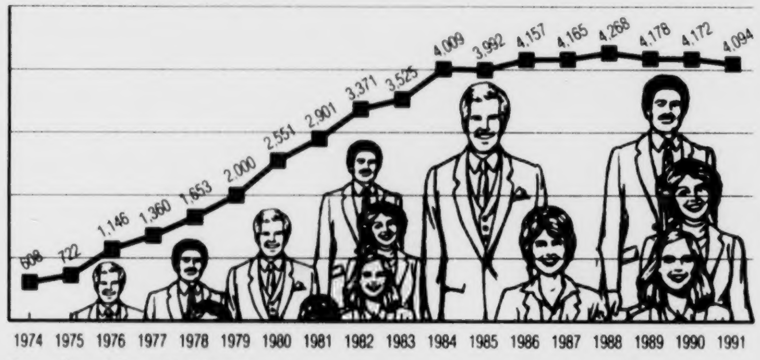
Interestingly, many PAC representatives have spoken with me pri-

BERGLUND CONTINUED . . .

power and remove the incentive for compromise with other factions in society. PACs are the modern-day version of Madison's 200-year-old political theory.

PACs themselves are not new to American politics. The first PACs were formed in the 1940s, by labor unions on behalf of their members. In 1961, the American Medical Association created the first nonlabor PAC. The campaign reform laws of the early 1970s, however, provided the impetus for the growth of PACs over the past decade.

GROWTH OF PACs
(includes only federally registered PACs)



Source: Federal Election Commission

The proliferation of PACs has created political fallout far beyond what the original supporters of campaign reform ever imagined, but more often than not, the results have been exceedingly positive. First and foremost, more citizens than ever participate in the political process because PACs allow people of relatively limited means to compete on more equal footing with people who have a lot of money. The Supreme Court has called the formation of PACs an "amplification" of the individual's political voice.

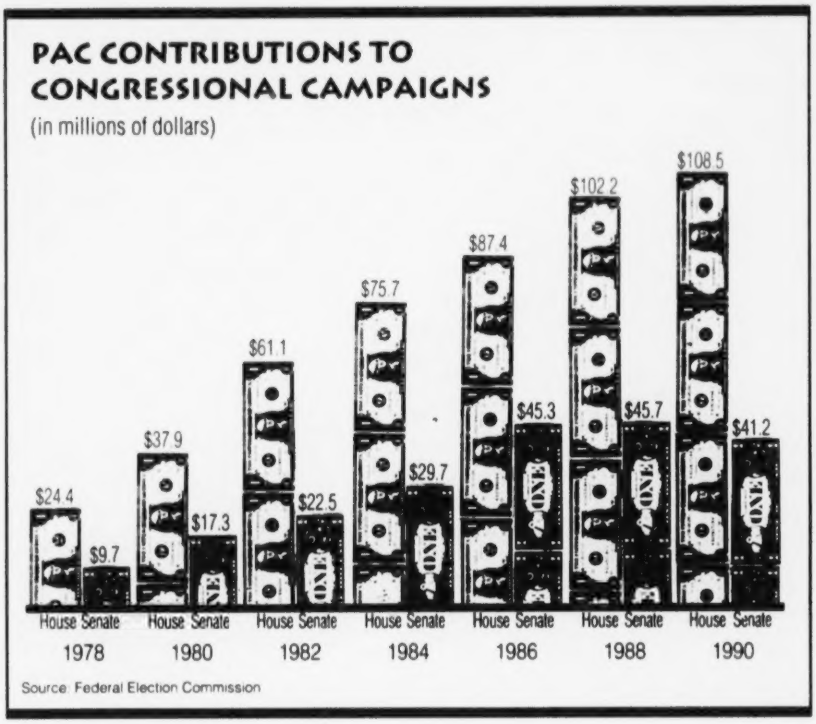
There is nothing inherently immoral or corrupt about contributing

BOREN CONTINUED . . .

vately about the need to limit PAC activities. The situation has become so bad that even the PACs are feeling victimized! Some members of Congress who are up for reelection now lobby PACs for as much money as possible. Indeed, some members of Congress send pointed letters to PACs asking for a contribution. They also pit one PAC against a competing PAC to assure contributions from both.

Last May, the Senate passed a bill I authored that will help to strip PACs of their political clout and return it to individual voters where it belongs. The Senate Election Ethics Act of 1991 will help do exactly that.

First, and perhaps most importantly, the bill bans PACs from par-



PAC CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGNS

(in millions of dollars)

Source: Federal Election Commission

BERGLUND CONTINUED . . .

money to political campaigns. Yet, the public always has been and always will be fundamentally suspicious of the role of money in politics. Congress has worked to alleviate some of the uneasiness by limiting the amount each PAC can contribute to an individual candidate—thus, a candidate for public office can accept no more than $5,000 per PAC per election season.

This may seem like a lot of money until you realize that campaigns for congressional seats cost upwards of $500,000, and for a Senate race can run as high as $10 million. Even more important, however, is that very few PACs collect enough money to be able to contribute the maximum allowed in any political race. In fact, recent statistics show that the average PAC contribution amounts to only $687 per political campaign.

Given the figures and restraints, there can be no such thing as one PAC buying a legislator's vote. The fact is that when so many PACs are contributing money to so many candidates, the effect is to cancel one another out. Madison's many factions are at work.

Yet PACs do have their critics. Many "PAC attacks" center on the alleged relationship between the high cost of campaigning for elective office and PAC contributions, a charge with no foundation. Effective campaigning in America today requires large expenditures. It is each voter's decision to act independently—rather than allowing a political party or other institution to make the choice—that is responsible for rising campaign costs. One candidate must reach hundreds of thousands of independent-minded voters, and, in American society, the two most effective means of reaching those voters—television and direct mail—are also the two most expensive.

One encouraging note is a study that uncovered a cause-and-effect relationship between campaign spending and voter awareness—the more money spent, the more informed the voter. However discomforting the large sums may be, who can argue with results that create a well-informed and knowledgeable American voting public?

Recent attempts to reform the current campaign financing laws raise the issue of fairness. Most proposals

BOREN CONTINUED . . .

ticipating in, or making financial contributions to, federal election campaigns. This provision alone would end the virtual monopoly PACs have exercised over congressional elections.

It is also critical that we limit the outrageous sums politicians can spend on congressional campaigns. While the Supreme Court has ruled that mandatory spending limits breach First Amendment rights, the bill establishes voluntary spending limits for candidates and uses various incentives to induce compliance. Candidates are encouraged to abide by those limits with a system of incentives such as vouchers for television advertising and reduced-rate mailing. Those who choose to exceed the limits and outspend their challengers would be required to say so in their advertising.

The bill discourages mudslinging campaigns by requiring candidates themselves to appear in, and take responsibility for the contents of, their ads. No more hiding behind actors and voice-overs to smear competitors. I believe that these and other provisions in the bill will help restore the faith of the American people in our election system.

In the many years I have been fighting for campaign finance reform, 1991 was the first time that both houses of Congress passed reform bills and scheduled a conference to negotiate a final version to send the president.

It is tragic that participation in the electoral process has come to mean writing a check rather than debating, canvassing, and voting. It is tragic that our system of campaign financing leads to the kind of abuses we have seen in the PAC-dominated political scene. While our bill will not solve all of the problems in our current election process, I am confident that it will help restore the honest competition a democracy needs to succeed.

BERGLUND CONTINUED . . .

favor the incumbent, because a challenger would have to go to great lengths (i.e., vast amounts of personal income) to achieve recognition as a viable candidate. Two oft-mentioned proposals—limiting campaign expenditures and taxpayer financing—would actually favor incumbents, who begin reelection campaigns with the advantages of office: salary, staff, travel, communications, and free media attention.

Moreover, limits on campaign expenditures strike at the heart of our First Amendment rights. There is considerable question whether any proposal relating to expenditure limits could withstand a constitutional test. In one recent decision, the Supreme Court ruled that Congress cannot limit the amount PACs spend independently on presidential candidates without violating the First Amendment rights of freedom of speech and association.

However, there are some measures that would improve the current system. First, expanding disclosure laws to include hidden costs now often buried in campaign ledgers would enable the public to make informed voting decisions.

Second, increasing the limits on, and providing tax deductions for, individual campaign contributions would further encourage people to become involved in the political process.

Third, encouraging radio and television stations to schedule debates and discussions of campaign issues would help reduce the costs of media exposure.

And, fourth, requiring congressional candidates to refund or donate to charity any campaign funds left 30 days after the election would eliminate the incentive to collect money that could be used in future campaigns.

The most important fact remains: PAC contributions to congressional candidates do not represent a danger to the American political system. The diversity and number of PACs are testimony to the health of democracy rather than to its sickness. PACs do not represent a monolith of special interests, but rather the concerns of a pluralistic society.

PACs are an outgrowth of the American political process and offer an opportunity available to every American citizen—the right to have a voice in our government.

CASE STUDY

Interest Groups

THE NAACP: LOBBYING FOR BLACK AMERICANS

by Charles R. Sass

Close Up Foundation/Renée Bouchard

This is the story of how an interest group—the National Association for the Advancement of Colored People (NAACP)—has worked to give black Americans the same rights and freedoms as white Americans. As you read, try to answer the following questions:

- *What are interest groups, and what tactics do they use to deliver their messages?*
- *Who was W.E.B. Du Bois, and why is he important to the history of the NAACP?*
- *What incidents brought about the call to organize the NAACP?*
- *What has been the principal tactic used by the NAACP to further the cause of black Americans?*
- *How did World War II lay the foundation for the expansion of the civil rights movement?*
- *What was the role of the NAACP in ending legal school segregation?*

James Madison, in making his case for creating a strong federal government, warned of the "mischiefs of faction" in *Federalist 10*. But Madison was also convinced that the very size and diversity of the country would make it impossible for any single faction or interest group to form a majority that could dominate the government. Thus, he believed that factions should be allowed to exist and speak freely. In fact, Madison's language in the First Amendment implicitly affirms the right of Americans—interest groups included—to speak their minds. The amendment says that "Congress shall make no law . . . abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances." As a result of the actions of the nation's founders, interest groups—although at times "mischievous" as Madison had warned—have been allowed to form and flourish throughout U.S. history.

Americans cherish this freedom of association, which allows people to join together for a common purpose or activity. Alexis de Tocqueville, a young Frenchman who traveled around the United States during the 1830s, noted that

"Americans of all ages, all stations of life, and all types of dispositions are forever forming associations." Furthermore, Tocqueville observed, "In every case, at the head of any new undertaking, where in France you would find the government . . . in the United States you are sure to find an association."

Americans have formed all sorts of interest groups. For example, organizations like the American Conservative Union and Americans for Democratic Action are made up of people who have similar political ideals. Business interests have formed groups such as the U.S. Chamber of Commerce. Labor organizations like the AFL-CIO represent the interests of organized labor throughout the nation. Other interest groups represent religious denominations, trade associations, foreign governments, state and local governments, ethnic and racial interests, and others. In fact, more than 1,000 lobbying organizations are currently registered with the federal government. All may be placed under Madison's faction label. Some commit "mischiefs" to call attention to their cause, but most revere the American system as set up under the Constitution.

Interest groups, sometimes called pressure groups, use various tactics to secure favorable treatment and legislation from the government. They inform and educate officials and the public through books, pamphlets, radio and television programs, seminars, and so forth. They obtain information by preparing questionnaires for their members and for government officials, they organize letter-writing campaigns, they take legal action, and they *lobby*. Lobbying is the practice of attempting to convince government officials to seek or enact legislation favorable to an interest group. During the eighteenth and early nineteenth centuries, lobbyists commonly engaged in blatant vote-buying and bribery. But those days are long past. The American public will not stand for those tactics, and any hint of such improprieties brings disgrace on the perpetrators. The techniques used by lobbyists today are more sophisticated—and legal. Associations, organizations, coalitions, and corporations commonly refer to their lobbying efforts as "government relations," "political affairs," and "legislative activities."

Lobbyists operate in different ways. They provide information both to government officials and to their special-interest constituencies. Most lobbyists are experts in their areas, capable of supplying statistics, analyses, position papers, and testimony to members of Congress and their staffs and to officials of the administration. Such information must be honest and accurate, or their reputations and effectiveness as lobbyists would soon be ruined. And, of course, lobbyists also channel information back to the interest groups for whom they work. They keep track of how members of Congress vote and the vulnerability of senators and representatives to pressure. Armed with this information, lobbyists then advise their constituencies on which tactics will best exert that pressure. Such tactics may cause the public to view interest groups and their lobbyists with skepticism; nevertheless, lobbyists provide Americans with yet another way in which to influence and gain access to the political system.

One large segment of the U.S. population that has formed effective lobbying organizations is made up of people who are of the same race—black Americans. Blacks in the United States have been, and still are, seeking the civil rights that the Constitution granted them more than 120 years ago.

Despite the fact that the Thirteenth Amendment outlawed slavery in 1865, or that the Fourteenth Amendment made citizens of the freed slaves in 1868, or that the Fifteenth Amendment gave black men the vote in 1870, black Americans have spent decades trying to get the rest of the people in the country to recognize their plight and advance them full citizenship. Out of this effort to gain full rights for blacks grew the civil rights movement.

After the Civil War and Reconstruction, ex-slaves found themselves the victims of massive discrimination and "Jim Crow" laws that legitimized that discrimination. Racist whites denied blacks the right to vote, lynched and terrorized blacks, and imposed numerous other degrading indignities through segregation and discrimination. Thus, around the turn of the century the first meaningful civil rights movement came into being.

At first the movement was essentially passive, strongly tempered by black fears of southern white repression and reprisal. Nevertheless, there were instances of racial violence after World War I and in the 1930s when protests by blacks seeking more rights were met by hostile whites who were not about to extend them. The most violent race riot of this period took place in New York's Harlem in 1935. After rumors had spread of the killing of a black youth caught stealing by a white shopkeeper, Harlem exploded into violence. Outraged blacks took to the streets, smashing and looting property. The Harlem riots frightened many Americans, especially whites, because it was black-initiated and directed at shops and stores, the symbols of white economic domination. But protest, whether peaceful or violent, was the exception and not the rule prior to World War II.

However, the civil rights movement became much more active after World War II, when American blacks began to demand their rights openly. Many had fought for their country or had moved north to work in wartime industries for decent pay. They were not about to be forced back into their old prewar status, even if it was necessary to resort to different forms of protest to make the point. Much of the postwar protest was nonviolent, but activist in nature. Blacks depended on peaceful marches and rallies to draw attention to discrimination, and civil rights leaders sought to advance their cause through legislation and court actions. Although more and more militant leaders made their way to the forefront of the civil rights movement as the years progressed, the nonviolent movement had nationwide appeal among most blacks. Peaceful protest gained a much more sympathetic national response from white Americans as well. At the forefront of this nonviolent movement was the National Association for the Advancement of Colored People (NAACP). Many civil rights groups have formed since Reconstruction, but none has played a more important role than the NAACP. The NAACP occupies a supreme and special place in the civil rights movement of the twentieth century. Its goal was the integration of black Americans into the mainstream, seeking redress largely through the courts, the ballot, and the press.

Courtesy of NAACP Public Relations

W.E.B. Du Bois was the first black American to earn a Ph.D. from Harvard University. Du Bois, a professor at Atlanta University, was the principal founder of the Niagara Movement and one of the organizers of the NAACP. As the longtime editor of the NAACP's *The Crisis*, Du Bois used the magazine to state his beliefs and the official positions of the association.

ROOTS OF THE NAACP

> We claim for ourselves every single right that belongs to a freeborn American, political, civil and social; and until we get these rights we will never cease to protest and assail the ears of America. The battle we wage is not for ourselves alone but for all true Americans. It is a fight for ideals, lest this, our common fatherland, false to its founding, become in truth the land of the thief and the home of the Slave—a byword and a hissing among the nations for its sounding pretensions and pitiful accomplishment.
>
> W.E.B. Du Bois
> *The Niagara Address of 1906*

W.E.B. Du Bois's proclamation that "until we get these rights we will never cease to protest and assail the ears of America" reflected the views taken by him and a small group of black teachers, editors, and professional men who formed the Niagara

Movement—named for its meeting place in Niagara Falls, Ontario. The founders of the Niagara Movement met in Canada because hotels on the New York side of the falls would not rent rooms to blacks. The movement emanated from a call by Du Bois to oppose the accommodationist views and actions symbolized in the philosophy and programs of popular black leader Booker T. Washington. The Niagara Movement, founded in 1905, met for a second time in Harpers Ferry, West Virginia—to honor abolitionist John Brown—and issued a resolution demanding:

- full manhood suffrage,
- cessation of discrimination in public accommodations,
- the right to associate with any free persons regardless of race,
- the equal enforcement of laws among races and economic classes, and
- the education of black children.

The Niagara Movement, suffering from a lack of funds and internal disagreement, lasted only four years, but Du Bois and other organizers soon joined other black and white leaders to establish the National Association for the Advancement of Colored People. The NAACP was soon to become America's most prominent and influential civil rights organization.

ORGANIZING THE NAACP

The National Association for the Advancement of Colored People was founded in 1909. It was organized in response to the declining status of black Americans in the United States and in particular to a violent race riot in Springfield, Illinois, in 1908. This riot prompted writer William English Walling, in the Springfield periodical *The Independent*, to call for a revival of the abolitionist spirit in America. Walling asked citizens to rally in support of blacks and help stop the shameful beatings and lynchings that were going on in the country at the time.

In many places, blacks were being subjected to horrible treatment by mobs of whites. For instance, two convicted black murderers were burned alive, two black women were whipped, a young mother was beaten and kicked, her husband killed, and many black homes were wrecked in Statesboro, Georgia, in 1904. In Atlanta, in September 1906, mobs of whites chased black people through the streets, beating and killing them, and burning their property. In Brownsville, Texas, part of the black 25th Infantry was involved in a race riot in which the white soldiers involved went unpunished while President Theodore Roosevelt handed down dishonorable discharges to the entire black garrison. Such incidents were seen by many leaders, both black and white, as evidence that race relations in the United States, already bad, were deteriorating even further.

Following the Civil War, ex-slaves were granted rights and the vote under the Constitution and blacks were elected to high offices in many southern states. However, after this brief glimpse of freedom for blacks, the situation soon deteriorated in the South. Many southern whites were determined to keep blacks poor, uneducated, and powerless. Under the leadership of the Ku Klux Klan, racist whites used terrorism and violence to reestablish white supremacy. Between 1882 and 1901, nearly 2,000 blacks were lynched. By 1910 near total segregation was in place in the South as a result of "Jim Crow" laws that forced blacks to use separate restrooms, water fountains, restaurants, waiting rooms, swimming pools, libraries, and schools.

It was in this climate that white liberals and black activists such as Walling, social worker Mary White Ovington, writer Charles Edward Russell, ministers Alexander Walters and William Henry Brooks, Oswald Garrison Villard (the grandson of abolitionist William Lloyd Garrison), and others met to form the organization that came to be known as the NAACP. In 1910, the new organization set up offices in New York under the presidency of Moorfield Storey, a white Boston lawyer. W.E.B. Du Bois became the director of publicity and research and editor of the NAACP's journal, *The Crisis*.

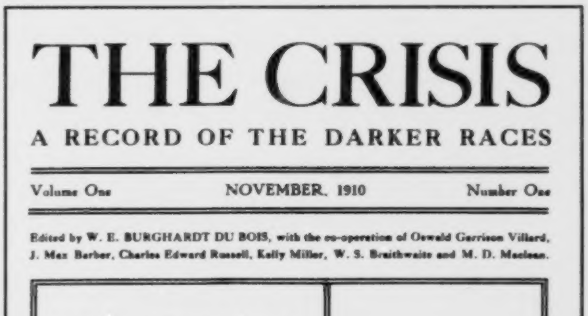
In the first edition of *The Crisis*, Du Bois presented the position of the NAACP. It stated that the organization stands "for the rights of men, irrespective of color or race, for the highest ideals of American democracy, and for reasonable but earnest and persistent attempts to gain these rights and realize these ideals." *The Crisis* promoted membership in the NAACP by documenting racist violence in the country and urging blacks to stand up for their rights. The magazine surged in popularity, reaching a circulation of more than 100,000 by 1919.

Du Bois versus Washington. Conspicuous by his absence in the new NAACP was Booker T. Washington. Washington, the founder of Alabama's Tuskegee Institute—a college for blacks—was known for his yeoman efforts to educate rural southern blacks to be better farmers and small-business owners. By the beginning of the twentieth century, Washington was the most famous black man in the country and the leading spokesperson for his race. However, Washington's leadership was controversial to some blacks because of his belief that black people were in a dangerous position and would be better off trying to please whites rather than to antagonize them. He once said that "the wisest among my race understand that the agitation of questions of social equality is the extremist folly. The opportunity to earn a dollar in a factory just now is worth infinitely more than the opportunity to spend a dollar in an opera house." His opponents, primarily W.E.B. Du Bois, criticized Washington's ideas, causing a rift between them that did not disappear until Washington's death in 1915. Until the end, Washington refused to be a part of the NAACP and even tried to discredit it.

EARLY EFFORTS OF THE ASSOCIATION

In addition to publishing *The Crisis*, the NAACP began major efforts to secure voting rights for disfranchised blacks, stop the violence and lynching being perpetrated against them, and initiate legal efforts to end discrimination.

Voting Rights. Most of the early work of the NAACP centered on efforts to end disfranchisement based on race and sex. The leaders of the association held that before any real reform could be accomplished, women and blacks would have to become voters. A notable accomplishment of the NAACP's voting rights fight came in 1915 when, in the case of *Guinn v. United States*, the U.S. Supreme Court ruled that the "grandfather clause," an old Reconstruction device for keeping blacks from voting, was unconstitutional. In that case, the NAACP's legal committee filed a friend-of-the-court brief (a brief submitted to the Supreme Court by interested parties who are not directly involved in the case). The NAACP also scored a victory in the case of *Nixon v. Herndon*, in



THE CRISIS

A RECORD OF THE DARKER RACES

Volume One NOVEMBER, 1910 Number One

Edited by W. E. BURGHARDT DU BOIS, with the co-operation of Oswald Garrison Villard, J. Max Barber, Charles Edward Russell, Kelly Miller, W. S. Braithwaite and M. D. Maclean.

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PUBLISHED MONTHLY BY THE
National Association for the Advancement of Colored People
AT TWENTY VESEY STREET NEW YORK CITY

ONE DOLLAR A YEAR TEN CENTS A COPY

The first edition of *The Crisis* appeared one year after the founding of the NAACP. In the first edition, W.E.B. Du Bois, the magazine's editor, presented the position of the NAACP. Du Bois used *The Crisis* to document racist violence and to urge blacks to stand up for their rights.

The Henry Lee Moon Library and NAACP National Civil Rights Archives which the Supreme Court ruled that a Texas law banning blacks from voting in primary elections was unconstitutional.

Campaign Against Lynchings. The NAACP was born in response to lynching and mob violence and for many years considered suppression of this evil to be its top priority. The NAACP campaigned against lynching by relentlessly publicizing statistics showing the frequency of these atrocities. Du Bois's efforts in *The Crisis* kept the statistics in the public eye. The association showered protests and demands for legislation upon the president, the speaker of the House, and the chairmen of the judiciary committees of Congress. Eventually, these efforts paid off.

An antilynching bill to make mob murder a federal offense was passed in the House of Representatives in 1922 but could not pass in the Senate because of filibustering by southern senators. However, the bill stayed before Congress until 1925, and even though it did not pass, the cause gained widespread publicity because of the NAACP's campaign. As a result, lynchings fell to a third of what they had been the previous decade.

An antilynching bill has never passed Congress, but the steady publicity generated by the NAACP caused incidence of the crime to stop by 1950. Roy Wilkins, former executive secretary of the NAACP, said, "If our NAACP had done nothing more in its forty years of life than to expose this crime and recount public opinion that has practically stamped it out, our existence would have been worthwhile."

Legal Efforts Against Discrimination. The legal committee of the NAACP was active from the very beginning. The success of NAACP lawyers in *Guinn v. United States* proved to many black leaders that the courts could be used to their advantage when other avenues failed. In the 1917 case of *Buchanan v. Worley*, the Supreme Court invalidated a residential segregation ordinance in Louisville, Kentucky, by ruling in favor of NAACP president Moorfield Storey's contention that segregation ordinances violated the Due Process Clause of the Fourteenth Amendment. In the 1923 case of *Moore v. Dempsey*, the Court once again agreed with Storey, who argued that trials of blacks after riots in Arkansas violated due process because they took place in an atmosphere of mob hysteria. Also in 1923, the Supreme Court held that if blacks were excluded from juries, a fair trial for a black defendant was impossible.

Although there were disappointments along the way, the NAACP's legal efforts proved to be its most effective means of fighting for rights. The association found some powerful sympathizers in the federal courts, and distinguished attorneys such as Clarence Darrow and Felix Frankfurter often gave their services for free.

Early in its history, the NAACP made other efforts to bring its work and the plight of the people it represented to the attention of the public. NAACP speakers and their sympathizers made speeches at mass meetings around the country. The association annually awarded a gold medal—the Spingarn Medal—for "the highest and noblest achievement of an American Negro." The NAACP diligently sought to counter untrue and derogatory publicity, especially in seeking to suppress *The Birth of a Nation*, a movie that portrayed blacks in a vicious light and Reconstruction as a failure.

These early efforts helped the association grow, and branches sprang up throughout the country. By 1920, the NAACP had over 90,000 members and 400 branches. Ironically, by the time the NAACP was ten years old, the Ku Klux Klan—which had been revived in 1915—had over 2 million members.

THE NAACP, THE NEW DEAL, AND WORLD WAR

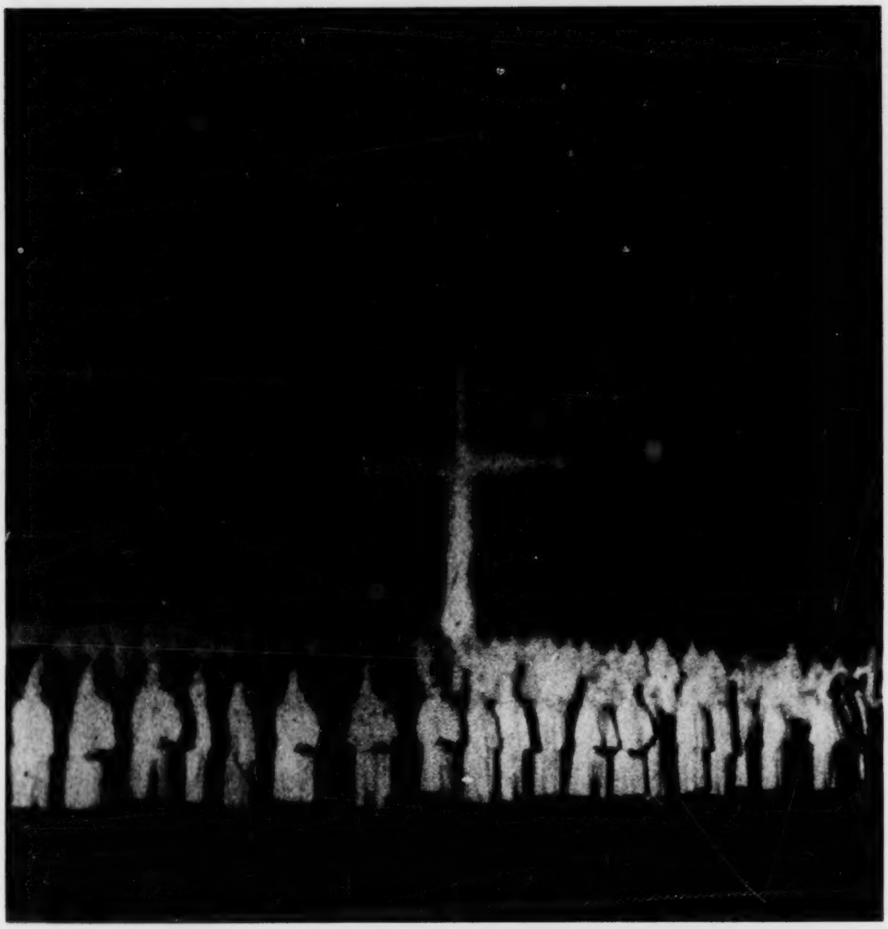
Despite progress in the first ten years of its existence, the National Association for the Advancement of Colored People faced a constant uphill battle in its fight to correct the wrongs faced by black Americans. President Woodrow Wilson was a southern Democrat who issued orders segregating most black federal employees in Washington. In addition, Wilson's War Department was reluctant to accept black volunteers into the military at the start of World War I. Eventually, however, through the efforts of NAACP officials and because young men of all races were subject to the draft, 200,000 black troops served overseas with 42,000 seeing combat duty. However, the young black men who went to Europe in 1917 and 1918 to "make the world safe for democracy" were greeted upon their homecoming by the same old "business as usual" discrimination. Numerous race riots followed in what was called the "red summer" of 1919.

The continuing migration of blacks from the South to the North throughout the 1920s exacerbated the competition between urban blacks and whites for jobs and housing. Racial violence continued in all parts of the country. The Ku Klux Klan intimidated southern blacks with threats and violence. In Florida, the Grand Master of the Klan addressed proponents of black enfranchisement by writing, "We have been informed that you have been telling Negroes to register . . . now you know that history repeats itself. . . . We shall always enjoy white supremacy in this country and he who interferes must face the consequences." Thus, blacks in Florida were intimidated to keep them away from the polls, and where they did show up, bloodshed occurred. In Ocoee, Florida, a mob surrounded a black residential area and burned eighteen houses, two churches, a school, and a lodge hall. As many as thirty-two blacks were murdered there. Similar incidences happened throughout the South, and the North was often just as bad. In Detroit in 1925, a mob numbering 1,000 people surrounded a house that had been purchased by a black doctor in a white neighborhood and bombarded it with rocks. Large-scale race riots also took place in East St. Louis, Chicago, and Tulsa.

The New Deal. With the election of Franklin Roosevelt to the presidency in 1932, the political influence of blacks grew. Although Roosevelt did not give high priority to black affairs, he accepted people in his cabinet who did. In fact, by 1936 there was a "Black Cabinet" made up of thirty to forty advisers from various government departments and agencies, and the political influence of blacks, who were rapidly switching to the Democratic party, was not lost on the president.

The Great Depression was hard on the whole nation, but it was especially difficult for black Americans. By the mid-1930s, twice as many blacks needed public assistance as whites. In some cities, 70 to 80 percent of the people on relief were black. President Roosevelt promised relief, recovery, and reform as he created his New Deal agencies, and many black Americans benefited from the New Deal. Programs such as the Agricultural Adjustment Act (AAA), the National Youth Administration (NYA), the Civilian Conservation Corps (CCC), and the Works Progress Administration (WPA) managed to help large numbers of poor and unemployed blacks. The WPA provided work for more than one million blacks, the CCC gave practical training in the conservation of natural resources to more than 250,000 black youths, and more than 400,000 blacks enrolled in classes provided by the National Youth Administration.

Before the Great Depression, the NAACP had not had much experience in dealing with the poor economic condition of black Americans. Most of its activities were confined to securing civil rights and liberties through legal procedures. Traditionally, unemployment and other economic problems for blacks had been handled by another civil rights organization, the National Urban League. However, the NAACP, whose finances and membership rolls decreased drastically because of the depression, investigated and publicized unfair labor practices and petitioned the courts and the government for redress of grievances. As a result of NAACP action, Roosevelt's Public Works Administration (PWA)—under the administration of Harold L. Ickes, a past president of the Chicago branch of the NAACP—decreed that its contracts would carry a nondiscrimination clause. Such a clause was valuable for blacks because it meant that companies doing business with the PWA could not use race as a basis for hiring. The NAACP did give some financial aid to tenant farmer groups and directed a great deal of effort to end discrimination in organized labor. Although the NAACP worked closely with agencies dealing with the severe economic problems of the Great Depression, most of its leadership continued to believe that the association should still emphasize its traditional role of



Courtesy, Georgia Department of Archives and History

The Ku Klux Klan (KKK) was first organized in 1866 by young men in Pulaski, Tennessee, as a social club with costumes and rituals. It soon turned into a terrorist organization intent on intimidating ex-slaves and their white supporters in the South. Federal laws and the efforts of President Grant broke the back of the first Klan by the early 1870s. The KKK was revived in 1915 as a reaction to increasing migration and demands of black Americans. Its membership peaked at 8 million after World War I before falling off rapidly in the 1920s and 1930s.

working for civil rights through publicity and the courts.

World War II. The NAACP made substantial progress in aiding the black cause throughout World War II. Through negotiation with President Roosevelt and members of his administration and continuing legal action, conditions for black soldiers were greatly improved over World War I. Early efforts by the association to integrate black officers and recruits into all military units were not successful, and segregated units remained intact. But black colleges were extended more Reserve Officer Training Corps (ROTC) units, and a flight training school for blacks was set up in Tuskegee, Alabama. Constant pressure from the NAACP and the black community finally opened the navy and marine corps to black enlistments and later to commissions for blacks in their officer corps. Black women were also eventually accepted into the WAVES and the WACS—women's branches of the navy and army.

The NAACP and the Brotherhood of Sleeping Car Porters, under the leadership of A. Philip Randolph, planned a march on Washington, D.C., in 1941 to protest the discriminatory hiring practices of defense industries. But President Roosevelt persuaded the black leaders to call off the march by promising to issue an executive order prohibiting hiring discrimination in defense industries. *Executive Order No. 8802* was issued on June 25, 1941, just twenty-eight years after legal discrimination had been instituted under Woodrow Wilson. An antidiscrimination clause was now placed in all war contracts, and a Fair Employment Practices Commission (FEPC) was set up to

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OTHER PROMINENT CIVIL RIGHTS ORGANIZATIONS

The National Association for the Advancement of Colored People has a long and famous history, enjoying many successes in advancing rights for minorities. However, other organizations have also been successful in promoting civil rights. Five of the most prominent include:

The Congress of Racial Equality (CORE). CORE, founded in 1942 by James Farmer at the University of Chicago, rose to prominence in the civil rights movement of the 1960s. CORE members commonly led nonviolent protests against discrimination, especially in public facilities. They pioneered techniques of passive resistance such as restaurant sit-ins, first used by CORE in Chicago in 1943. Farmer, a prolific author, went on to become an assistant secretary of Health, Education, and Welfare in the Nixon administration.

Nation of Islam. Often referred to as Black Muslims, the Nation of Islam was founded by W.D. Fard (also known as Wali Farad, Master Farad Muhammad) in Detroit in the 1930s. In 1934, the group came under the leadership of Elijah Muhammad, who advocated policies of strict racial separation and urged self-sufficiency of black Americans. Another leader of the Nation of Islam was Malcolm X, who was suspended from the Black Muslims after a dispute with Elijah Muhammad, but went on to form his own nationalist organization.

The National Urban League. The National Urban League was founded in 1910, making it nearly as old as the NAACP. It was established to help black migrants from the rural South find jobs and housing, gain more education, and adjust to an urban environment. The League now uses the methods of social work, economics, and law to attempt to solve the basic problems faced by both urban and rural poor people. Two of the Urban League's most prominent leaders have been Whitney Young and Vernon Jordan.

The Southern Christian Leadership Conference (SCLC). The SCLC grew out of the Montgomery, Alabama, bus boycott of the mid-1950s. The organization has worked to improve the economic, political, and social conditions of minority groups, subscribing to the Gandhian philosophy of nonviolence. The SCLC was led by Martin Luther King, Jr., and Ralph Abernathy and was in the vanguard of the civil rights movement in the 1960s.

Student National Coordinating Committee (SNCC). SNCC was formed in 1960 by black college students as an organization dedicated to direct-action protest throughout the South. First called the Student Nonviolent Coordinating Committee, its members used sit-ins, led voter registration drives, and pioneered the "jail-in" in which an arrested demonstrator would refuse to pay fines, insisting instead on serving the whole sentence. Under the leadership of Stokely Carmichael, SNCC began to turn toward militant black liberation. Carmichael popularized the phrase "black power," and eventually left SNCC to join the Black Panther party.

investigate complaints of violations. About 2 million blacks were working in war plants by the end of 1944, and the demand for black labor in northern factories was causing a great migration out of the South.

Eventually, about 1 million black Americans served in the armed forces during World War II, in every branch and every theater. However, most still served in segregated units and met with the same kinds of discrimination they had faced in civilian life. Although it was not until 1948 that President Harry Truman ordered total integration of the U.S. military, World War II proved to be a turning point for American blacks. When the war was over, many blacks refused to accept the restrictions that had been placed on their lives before the war, and the experience of the war helped provide the motivation to demand for themselves the freedoms for which the war was fought. A foundation was laid for a great expansion of civil rights efforts after the war. Membership in the NAACP grew during the war from 50,000 to 450,000.

THE NAACP AND POSTWAR CIVIL RIGHTS

World War II brought many changes to the nation and to black Americans. Over 1 million young black men and women returned home to find that they were still being treated like second-class citizens. Only this time, many decided that they were not going to stand for such conditions and were going to demand their rights. Additional millions of black workers, many of whom migrated north from their former homes in the South, had found jobs in defense industries and were finally being paid decent wages. They were not about to allow conditions to go back to the way they had been before the war. The ranks of the NAACP swelled as hundreds of thousands of people paid their dues and became active in the organization. At the same time, other civil rights organizations such as the National Urban League and the Congress of Racial Equality also attracted record numbers of new members. NAACP members and the association's lawyers began to turn their efforts toward ending discrimination in education and public transportation.

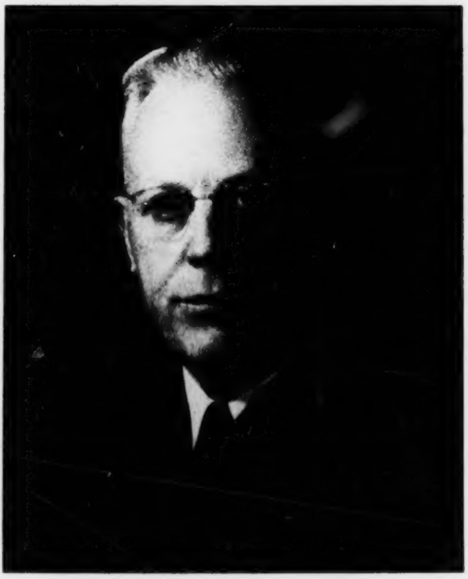
Discrimination in Education.

From its beginnings, the NAACP attacked segregation and discrimination in education. In fact, in 1909—the year the NAACP was founded—the association published a pamphlet attacking unequal schools for blacks. NAACP founders were especially interested in generating federal aid for vocational education in public secondary schools and extension classes for small farmers to help them improve their farming methods. However, the NAACP actively opposed the Smith-Lever Bill of 1914, which gave federal aid to agricultural colleges because of the bill's discriminatory features. As more blacks migrated north during and after World War I, the NAACP attacked northern public schools that were attempting to introduce school segregation.

It was not until the 1930s that the NAACP began an aggressive and sustained campaign to end segregation and discrimination in education. The association enjoyed a few early successes. In 1936, the NAACP won a suit against the University of Maryland law school, and blacks were admitted. Two years later, the Supreme Court again agreed with NAACP lawyers, who said it was unconstitutional for Missouri to refuse to allow blacks to attend the state university when there was no equal school available to them.

An early tactic used by NAACP lawyers was to insist that southern states comply with the 1896 Supreme Court ruling in *Plessy v. Ferguson*. This ruling held that separate facilities for blacks must be equal to those provided for whites. Association attorneys believed that by insisting on equal facilities and equal salaries for black and white teachers, states and local school districts would find it financially impossible to maintain two public school systems—one for blacks and one for whites. NAACP legal experts in the 1930s and 1940s successfully argued before the courts that if there were differences in facilities and teacher salaries because of race, such differences were a violation of the Fourteenth Amendment. However, despite favorable court rulings, most southern states hardened their resistance to providing equal education for black students. It became increasingly clear to the Court that segregated educational facilities were not equal, and therefore, doubts were raised about the constitutional validity of the doctrine of separate but equal as set forth in *Plessy*.

By the early 1950s, the NAACP, spearheaded by its chief lawyer, Thurgood Marshall, was pushing



Collection of the Supreme Court of the United States

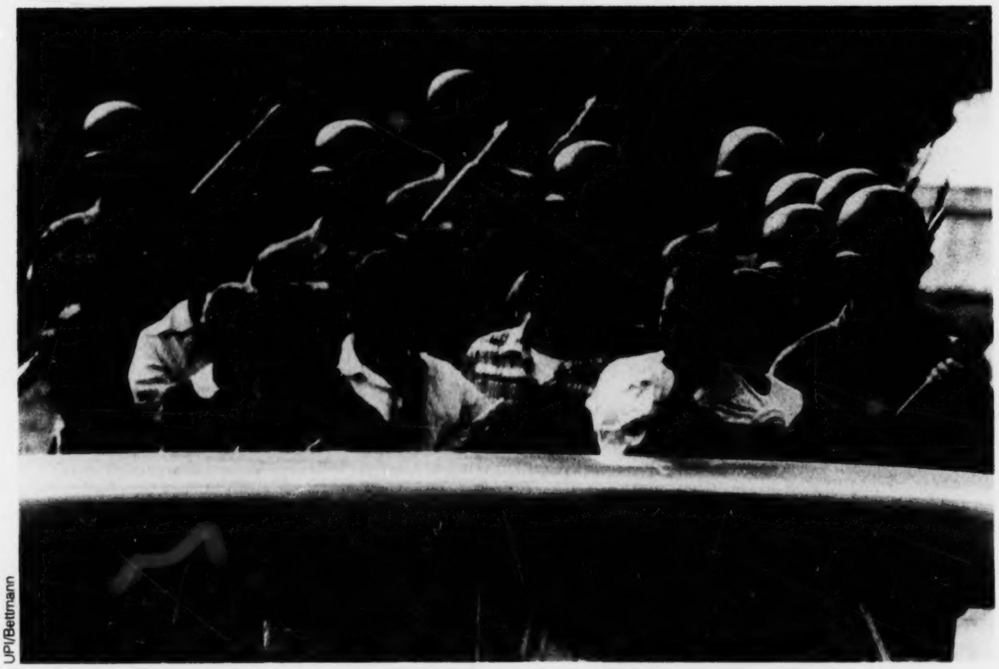
In 1953, California governor Earl Warren was appointed by President Eisenhower to be Chief Justice of the Supreme Court. Warren wrote the opinion of a unanimous Court in *Brown v. Board of Education of Topeka, Kansas*, declaring that "In the field of public education the doctrine of 'separate but equal' has no place." The Warren Court was responsible for many far-reaching social and political changes.

several legal challenges to school segregation through the federal appellate courts. Five such cases—from Kansas, Delaware, South Carolina, Virginia, and the District of Columbia—came to the Supreme Court for joint argument in 1952. These five cases are usually cited by reference to the first case, *Brown v. Board of Education of Topeka, Kansas*. Chief Justice Earl Warren wrote the opinion handed down on May 17, 1954, in which a unanimous Court declared that "in the field of public education the doctrine of 'separate but equal' has no place." A year later, the Court directed "a prompt and reasonable start toward full compliance [with the ruling]" and declared that the process to integrate schools should move "with all deliberate speed." Thus was decided the case that helped revolutionize American education by eliminating legal school segregation.

School integration did not come overnight, because many southern states refused to cooperate. But further litigation by NAACP lawyers continued until the battle was won. In the most famous school desegregation action, Daisy Bates, the state president of the Arkansas NAACP, spearheaded the successful admission of nine black students to formerly all-white Central High School in Little Rock, Arkansas, in 1957. The "Little Rock Nine," as they were commonly called, were met with fixed bayonets as they attempted to enroll in Central High School. The governor had ordered the state's National Guard to surround the school, preventing the black students from enrolling. But after a tense three-week standoff, President Eisenhower ordered more than 1,000 paratroopers from the U.S. Army's 101st Division to escort the black students to class.

Thurgood Marshall, the successful lawyer in the *Brown* case, fought for and won numerous school admissions and voting-rights cases in the courts before being elevated first to the U.S. District Court by President John Kennedy and finally to the U.S. Supreme Court by President Lyndon Johnson. Justice Marshall, who retired in 1991, became the Supreme Court's leading civil rights champion.

Ending Jim Crow Transportation. As early as 1918, the NAACP fought against segregated public transportation. Its lawyers repeatedly pushed the Interstate Commerce Commission (ICC) to end



UPI/Bettmann

The first attempts by the "Little Rock Nine" to integrate previously all-white Central High School in Little Rock, Arkansas, were met with fixed bayonets by members of the Arkansas National Guard. Governor Orville Faubus called out the Guard to prevent the black students from entering the school. President Eisenhower finally sent 1,000 U.S. Army paratroopers to protect the students as they entered the building, thereby allowing integration to take place.

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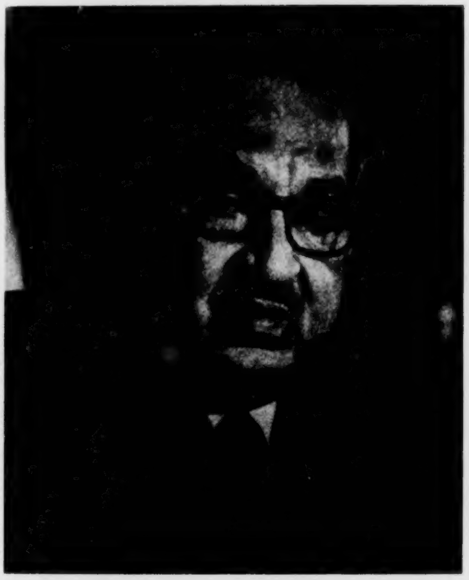
segregated seating on passenger trains that engaged in interstate commerce. Finally, in 1955, the ICC banned such practices on the trains as well as segregated restrooms and water fountains in the stations.

The year 1955 also marked the beginning of the most famous campaign against discrimination in public transportation. In Montgomery, Alabama, a black seamstress named Rosa Parks refused to relinquish her seat on a bus to a white man. Parks was arrested, thus setting off a successful bus boycott that was to spark civil rights activism throughout the South. Jo Ann Robinson and the Women's Political Council immediately began to organize a bus boycott with the support of NAACP leader E.D. Nixon. A newcomer in Montgomery, Martin Luther King, Jr., was chosen to be their leader. For 381 days, black people did not ride the buses in Montgomery. They organized car pools and walked, remaining nonviolent even when harassed.

On December 21, 1956, the Supreme Court outlawed bus segregation in Montgomery in response to a lawsuit brought by the boycotters with the help of NAACP attorneys. The Montgomery bus boycott showed for the first time that poor and middle class blacks could unite to launch a successful protest movement. Shortly after the Montgomery ruling, the Supreme Court also declared segregation in intrastate as well as interstate travel unconstitutional.



Supreme Court Historical Society

Thurgood Marshall, the NAACP's special counsel, successfully argued the case of *Brown v. Board of Education of Topeka, Kansas* before the U.S. Supreme Court. Marshall was appointed to a judgeship on the U.S. District Court by President John Kennedy in 1961 and was elevated to the U.S. Supreme Court by President Lyndon Johnson in 1967. Marshall was the first black to serve on the Supreme Court and became the Court's civil rights champion. The vacancy created by his retirement in 1991 brought the second black justice to the Court—Clarence Thomas.

AFTER BROWN AND MONTGOMERY

The civil rights movement gained considerable momentum after the favorable Supreme Court rulings concerning school integration and discrimination in public transportation. Civil rights leaders found more and more support in Congress and the White House. Many white Americans who had not paid much attention to the civil rights movement before were now aware of what was happening and were urging their elected officials to advance the cause. And the cause did advance.

NAACP officials Roy Wilkins and Clarence Mitchell lobbied hard in Congress for the passage of the Civil Rights Act of 1957, which created a Commission on Civil Rights to study racial conditions in the United States. More and more black Americans were now registering to vote through the efforts of the NAACP. The black bloc soon became an important force in elections—especially in many northern cities, where blacks were becoming the majority and, unlike in the South, could vote without obstruction.

The NAACP worked diligently to secure voting-rights legislation in Congress during the 1950s and 1960s, finally culminating in the passage of the Voting Rights Act of 1965. This act authorized the U.S. attorney general to send federal examiners to register voters and suspended literacy tests, poll taxes, and other devices commonly used to defraud black citizens of the right to vote.

Strong lobbying efforts on the part of blacks also played a major part in the successful passage of the most far-reaching of the civil rights bills, the Civil Rights Act of 1964. When the civil rights bill came before Congress in 1963, it was defeated. But the assassination of President Kennedy brought Lyndon Johnson to the presidency, and he made the bill

UPI/Bettmann

When Rosa Parks boarded the Cleveland Avenue bus in Montgomery, Alabama, on December 1, 1955, she was about to set off a chain of events that would launch a civil rights protest into the national spotlight. Parks was arrested for violating a city bus segregation law because she refused to give up her seat to a white man. Her arrest sparked a 381-day-long bus boycott, organized and led by a young Montgomery minister, Martin Luther King, Jr. On December 21, 1956, the U.S. Supreme Court outlawed bus segregation in Montgomery.

a high priority. Johnson pushed Congress hard, and in July 1964, the landmark Civil Rights Act of 1964 was signed.

One U.S. senator who worked to defeat the bill in 1963 was Barry Goldwater of Arizona. So when Senator Goldwater became the Republican nominee for president in 1964, his candidacy brought out a concerted effort on the part of the NAACP and other civil rights organizations to defeat him. The NAACP was convinced that a strong Democratic showing and the defeat of Goldwater would send a clear message to Congress and keep the civil rights momentum going. Goldwater's candidacy lent impetus to an NAACP voter registration drive that saw more than 6 million blacks vote in the 1964 presidential election.

When Congress passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965, the guarantees of equality under the Fourteenth Amendment were written into law. But putting those guarantees into practice did not happen overnight. Therefore, NAACP lobbyists and lawyers continued to pursue equality through legislative and judicial action in such areas as affirmative action, equal employment, school integration through busing, and ending discrimination in housing. The association also kept up its efforts in voter registration, particularly in the South, which resulted in the election of numerous black Americans to public office in places where they were not even allowed to vote less than thirty years before.

THE NAACP—SUCCESSFUL PRESSURE GROUP

The NAACP has proven itself to be one of the nation's most effective and enduring pressure groups. It has represented numerous unpopular causes throughout its history, sometimes going down to defeat but never wavering. It has put pressure on the American public, on Congress, on the president, and on the courts to give black Americans the same rights and freedoms that white Americans have. Throughout its history, the tactics of the NAACP have varied, but its goals have never changed and its reputation has generally remained untarnished, despite repeated efforts by detractors to discredit it.

The modern NAACP still pursues its goals much as it always has. It is still intent on educating the American public about the needs and wants of black Americans. The association provides a great amount of educational materials to schools and libraries and issues press releases to news organizations on important issues. The NAACP maintains an active Washington bureau that carries on the typical lobbying activities of analyzing bills, providing testimony before congressional committees, and urging members of Congress to support its causes. And the NAACP still strives to move the cause of blacks forward through the courts.

The NAACP still maintains that the courts are a good focus for its efforts because courts can change policy by rendering favorable decisions about existing statutes. This saves the association from having to spend time and effort trying to get new statutes passed. Testing the constitutionality of a law gives judges an opportunity to change a law rather than waiting for a legislative body to pass a new one. The NAACP has consistently and shrewdly used the courts to attack civil wrongs that would have taken years to change in Congress. And it has often been successful. In fact, the NAACP won thirty-four of the first thirty-five cases it brought before the Supreme Court. Today's NAACP legal system is not a legal-aid organization set up to represent needy clients. Rather, it commonly takes on cases involving blacks and public education institutions, equalization of teachers' salaries, enforcement of civil rights laws, admission to unions, expansion of job opportunities, and so forth.

As an advocate for black Americans, the NAACP has been unsurpassed. While some have criticized it for not being militant enough, and others claim that it is too aggressive, the effectiveness of the NAACP is indisputable. In fact, polls have shown that 80 percent of black Americans think that the NAACP is the most prestigious and trustworthy civil rights organization in the nation. For the future, the NAACP has set as its goal "the complete elimination of all vestiges of second class citizenship under which black Americans still suffer." This goal is not unlike those stated by W.E.B. Du Bois nearly ninety years ago when he claimed for all black Americans "every single right that belongs to a freeborn American, political, civil and social."

THE PEOPLE

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CHAPTER 8

THE PEOPLE

In the United States, we have a government of the people, by the people, and for the people. Our political system works because it relies on the involvement of citizens. As Americans, we have a responsibility to participate so that our views and desires are heard. Our choice should be not *whether* to participate, but *how* to participate. The articles in this chapter explore the many ways Americans can get involved in their government.

Political parties are one way to participate. Ronald H. Brown, chair of the Democratic National Committee, maintains that there are significant differences between the two major political parties. He traces the origins of the parties to disputes between Thomas Jefferson and Alexander Hamilton over industrial policy and the creation of a privileged elite.

Richard N. Bond, chair of the Republican National Committee, defines a political party as a group of people with shared values. For Republicans, these include free enterprise and a limited government close to the people. Both Brown and Bond encourage citizens to get involved in the political process, because, in Brown's words, "government is only as good as those who participate in it."

Unfortunately, many Americans are choosing not to participate: they do not vote. Curtis Gans, the director of the Committee for the Study of the American Electorate, points out that the United States has the lowest rate of voter participation of any democracy in the world. He outlines the dangers of voter apathy and suggests several ways to reverse this trend, arguing that "voting is a religious act" and that every citizen must come to believe that his or her vote makes a difference.

E. J. Dionne, Jr., a reporter who covers national politics for *The Washington Post*, is also concerned about "why Americans hate politics." He believes that the "either/or" politics of liberals

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and conservatives present Americans with false choices and keep them from reaching consensus on important issues. Dionne advocates "both/and" politics that will broadly unite Americans and encourage them to be involved in the political process. "A nation that hates politics," he argues, "will not long survive as a democracy."

Besides voting, another way to participate in the democratic process is to volunteer. C. Gregg Petersmeyer, the director of the White House Office of National Service, advocates voluntary community service as a way to solve critical social problems. He gives many examples of how Americans have made a difference through the Points of Light movement begun by President George Bush. Petersmeyer believes that the spirit of "neighbor helping neighbor" in voluntary community service creates a "web of family-like relationships" that government programs cannot offer.

Activism to bring about social change is yet another way to participate. Antonia Hernandez, president and general counsel of the Mexican American Legal Defense and Educational Fund (MALDEF), describes how the Latino community has achieved social change through legislation, litigation, and public education. As a recent example, she points to the combined effort of hundreds of Latino organizations to educate the Latino community during the 1990 census to ensure the most accurate count possible. As a result, the U.S. Census Bureau found that Latinos were the most informed group about the 1990 census.

This chapter's case study tells the story of Trevor Ferrell, an eleven-year-old boy who wanted to do something about homelessness. He began by giving his pillow to a homeless man and went on to found a successful program that aids hundreds of homeless people throughout his city and the nation. His story is an example of how young people can make a difference.

The Constitution's most important words are the first three: "We the People." We the people decide who runs our government by voting and joining political parties. We the people determine the quality of our communities through volunteerism and activism. In America, government begins and ends with we the people.

Close Up Foundation/Renee Bouchard

POLITICAL PARTIES AND PARTICIPATION: TWO VIEWS

Philip Bermingham Photography

Ronald H. Brown

is chairman of the Democratic National Committee. He previously worked in the presidential campaigns of Jesse Jackson and Senator Edward Kennedy.

DEMOCRATS AND REPUBLICANS: A DISTINCT DIFFERENCE

There are those who have accused the two major national parties, the Democrats and the Republicans, of compromising their founding ideologies in pursuit of political opportunism. There are those who say that the two parties really aren't that different, and therefore that your party affiliation doesn't make a difference. These skeptics are wrong.

Our two parties are distinctly different in both their founding principles and their future goals. Developed from a rivalry between Thomas Jefferson and Alexander Hamilton, the two-party system thrives upon a creative tension to resolve difficult issues. Today, the spirit of the parties' rivalry lives on.

Jefferson and Hamilton had different visions of the future. Jefferson envisioned America as a nation of small towns and settlements, of farmers and craftsmen

Republican National Committee

Richard N. Bond

is chairman of the Republican National Committee. He was deputy campaign manager for George Bush's presidential campaign in 1988.

REPUBLICANS: THE PARTY OF THE 90S

The Republican party is a diverse group. It is made up of rich and poor, young and old, laborers and executives, and women and men. It is also rich in ethnic and racial variety.

The Republican party is also diverse in its political opinions. On any single issue, there will be some in the party who disagree. But what bonds Republicans is the shared belief in the role of government in a free society.

As chairman of the Republican National Committee, I am responsible for bringing these diverse individuals together to achieve common goals. It's not an easy task. I'm talking about millions of Republicans across the country—and our party is constantly growing.

A DECADE OF GROWTH

In 1980, before former President Ronald Reagan took office, more than 40 percent of Americans identified themselves as Democrats, while just over 20 percent identified themselves as Republicans.

But by 1991, after President Reagan's two terms and the first three years of President George Bush's tenure, political-party identification changed dramatically. According to recent surveys of eligible voters, Republicans have erased the gap to

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and businessmen, a society of free men and women economically independent and politically equal, impeded as little as possible by the government. Hamilton felt that a prosperous elite was necessary to foster the nation's industrial and mercantile interests and that such a class should be reserved a definite and perpetual share in the government.

Jefferson's vision forged a path for Democrats. While Hamilton's focus was solely on the survivability of the free market, Jefferson was also concerned about the derivatives of a free-market economy—particularly those people made vulnerable by capitalism. For example, Jefferson opposed Hamilton's proposed United States Bank and his monetary, trade, and manufacturing policies. Jefferson fought Hamilton's proposals because he believed they weighed too heavily in favor of the privileged classes—a recurring stance in Democratic politics.

Although the issues change, Democratic values play an integral role in American politics. Two centuries of national development have altered Jefferson's concept of a rural, agrarian nation. But Jefferson's principles of universal liberty, freedom of mind, equality for all men and women, and, most importantly, his trust in the people have remained the philosophy that has guided the Democratic party and its great leaders, such as Andrew Jackson, Grover Cleveland, William Jennings Bryan, Woodrow Wilson, Franklin D. Roosevelt, Harry Truman, John F. Kennedy, Lyndon B. Johnson, Hubert H. Humphrey, and Jimmy Carter.

President Kennedy described the mission of the Democratic party in his State of the Union address in 1962: "A strong America cannot neglect the aspirations of its citizens—the welfare of the needy, the health care of the elderly, the education of the young. For we are not developing the nation's wealth for its own sake. Wealth is the means—and people are the ends."

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near parity, with only a 3 to 4 percent difference. When independents or unaffiliated voters are asked to choose between parties, party identification differences drop to a mere 1 percent.

Among young people, the numbers are even better. A clear majority of eligible voters ages 18 to 34 now call themselves Republicans. Surveys of young people indicate there will be tremendous growth of the Republican party during the 1990s.

I attribute this growth to the successful leadership of both Presidents Reagan and Bush. Just look at what was accomplished under these two men—the end of the Cold War and the collapse of communism. A whole generation never imagined they would live to see the Berlin Wall torn down.

This dramatic event symbolizes how a strong belief in freedom—combined with steady, responsible leadership—can accomplish historic changes that will benefit future generations throughout the world.

SHARED VALUES

The Republican party is held together by shared values and beliefs. In broad terms we believe the following:

- The proper function of government is to do for the people those things that need to be done, which cannot be done by the individual in his or her separate and individual capacity. This means that the most effective government is a limited government that is closest to the people.
- Good government is based on the individual. Therefore, each person's ability, dignity, freedom, and responsibility must be honored and recognized.
- Free enterprise and the encouragement of individual initiative give this nation an economic system second to none.
- Equal rights, equal justice, and equal opportunity—regardless of race, creed, age, gender, physical challenge, or national origin—are every American's birthright.
- We must retain the principles of the past worth keeping, yet be receptive to new ideas and keep

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THE ROLE OF THE DEMOCRATIC NATIONAL COMMITTEE

Thomas Jefferson founded the Democratic party in 1792 and was elected as the first Democratic president in 1800. Established by the Democratic National Convention in 1848, the Democratic National Committee (DNC) is the oldest continuing national party in the world.

A Democratic National Convention is held every presidential election year. The convention serves as a forum for delegates, who are selected in state primaries and caucuses, to update the party platform and nominate the party's candidate for the presidency.

In the broadest sense, a political party is a coalition of people who join together to try to earn governmental power by winning elections. Citizens rely on political parties to define issues, to support or oppose candidates on the basis of those issues, and then carry out the agreed-upon policies when the party is in power.

At our national headquarters in Washington, D.C., the DNC provides services to state, county, and local party organizations across the country. Each of these organizations is headed by a chairperson, who works to coordinate various party activities. Chief among these activities are voter registration and mobilization, fundraising, and public education.

DEMOCRATS OF THE 1990S

Democrats, who represent a wide range of ideas and backgrounds, continually create new goals and objectives. Always focused on protecting the quality of life for all U.S.

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an outlook broad enough to accommodate thoughtful change and varying points of view.

- Americans should preserve our military strength while sharing with people everywhere a desire for peace and freedom and the recognition of human rights.
- The Republican party is the best vehicle for translating these ideas into successful government action.

A great many Americans agree with this final principle, as indicated by recent presidential elections. In five of the last six presidential races, Americans have steadfastly held that Republicans are best suited to hold the world's most difficult and powerful job, administering our executive branch of government.

My goal as party chairman is to turn this loyal support for our presidential candidates into gains in the U.S. Senate, House of Representatives, and state and local elections.

MORE REPUBLICANS IN CONGRESS

Democrats have held the majority of seats in the House of Representatives for almost forty years. Unfortunately, these incumbents often seem more concerned with reelection and maintaining power than with moving America forward. President Bush has been frustrated when his vital legislative initiatives to Congress have been stalled, rewritten, or utterly destroyed. The president's proposals have included reform measures involving economic growth, the nation's health care system, crime prevention, and the improvement of our schools.

I have almost given up hope that the Democratic majority in Congress will take action on President Bush's important legislative proposals. Republicans want Americans to know that divided government, in which one party controls the presidency while another controls Congress, doesn't work. After almost four decades of uninterrupted control by the Democrats in Congress, Americans can use the power of their votes to turn over the reins to the Republicans.

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citizens, Democrats have sponsored bills such as the Americans with Disabilities Act of 1990 to give new dignity and meaning to the lives of persons with disabilities. By conquering strong presidential opposition, Democrats led the fight for the Civil Rights Act of 1991 to ensure that employment opportunities exist for all citizens, men and women.

Some of our current goals include working on fundamental changes in the nation's health care system. The need couldn't be greater. Health care costs have tripled over the past decade. As a result, 37 million Americans are without health insurance; if they get sick or injured, many are unable to see a doctor. Democrats believe that all Americans should have equal access to affordable, high-quality health care.

Democrats are pro-environment because we believe in protecting our valuable natural resources. We care about leaving our children a land as grand and as striking as the one we inherited. Democrats introduced and led the fight for the Clean Water Act and the Superfund, both of which protect citizens from hazardous and toxic waste. Environmental protection reaffirms the Democratic view that government is a vehicle for investment in America's future.

Also at the top of the Democratic agenda is our desire to improve our education system. In this post-Cold War age, history will judge presidential administrations less by their success in building new weapons of war than by their success in improving young minds. Democrats have always stood for education reform—including reforms that will assist those battling cultural and economic barriers.

All in all, every American must have an equal chance to make his or her way in life. An equal chance begins with equal access to health care, an education, a job, and a clean and safe environment. At present, equal opportunity for all Americans does not exist—but Democrats are working to change that reality. This is noble work, work of a caring government—work that can be led most effectively by a Democratic president.

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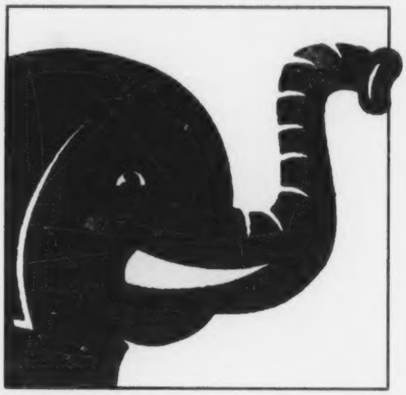
In congressional elections during the 1990s, it is my goal to have Republican candidates seeking election to each of the 435 districts that make up the House of Representatives. It won't be easy because incumbent members of Congress have an advantage over challengers in name recognition and the ability to raise campaign funds.

But even if Republicans do not become the majority in Congress, gains of just a few seats can give Republicans enough leverage to turn President Bush's proposals into law. That is why it is important for all eligible voters to use their constitutionally guaranteed right to vote. A few changes can make a big difference.

The number of Republicans interested in taking a seat in Congress is record-breaking. As of February 1991, 400 Republicans were planning to challenge Democratic incumbents in 176 congressional districts. A record number of Republican challengers are minorities—Asians, African-Americans, and Hispanics. This will bring a wonderful diversity to a U.S. Congress in desperate need of change.



At the local and state levels, Republican party activists are also reporting increased interest among Republicans in seeking elective office. The 1990s will no doubt be a historic decade for the Republican party.

JOINING THE PARTY

Our government is the voice of the people. That's why it is important for anyone eighteen or older to register and vote. Through the electoral process, you will become part of a wonderful political system that has provided this country with a stable

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GETTING INVOLVED

Upon reaching the age of eighteen, every U.S. citizen has an obligation to register as a voter and exercise his or her constitutional right to choose the members of government. Unfortunately, close to half of those individuals who are eligible to vote do not do so. In each of the fifty states, the Democratic party tries to solve this problem by organizing voter registration drives.

Our government is only as good as those who participate in it. As our country grows older, the issues have only become more difficult. An effective government is dependent upon the input of its citizens Half of the population cannot be expected to adequately address the concerns of the entire population. Inadequate solutions only lead to more difficult problems.

Just as we must take responsibility for our own actions, we must take responsibility for the actions of our government. This responsibility is not a burden but a right—the right to seek a role in directing the future. The government has empowered you by giving you the right to vote, and you in turn empower the government by ensuring that the best candidates with the best ideas are elected.

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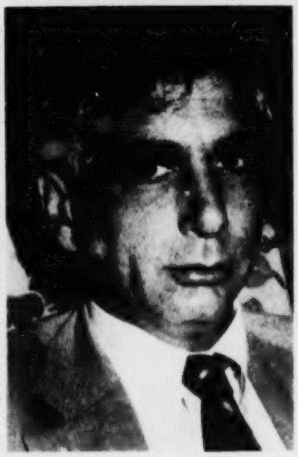
government and a continuous peaceful transfer of power for more than 200 years. We are the model for democracy throughout the world. Despite the sometimes contentious nature of our two-party system, it is this vibrant political process that makes democracy work.

Today, after decades of one-party rule, countries in Africa, Asia, eastern Europe, and the Middle East are looking to the United States and its political institutions for leadership. With American help, they are rejecting communist oppression and embracing freedom and democracy.

If you think you share Republican values, I urge you to contact your local Republican organization to learn more about the GOP (Grand Old Party) and how you can become involved. If you choose to attend college, join the College Republicans. If you enter the workforce, or after you complete your college studies, I hope you'll consider becoming active in the Young Republicans.

When you examine the issues, you will find that activity in the political process has a lot to offer. So does the Republican party, and so do you.



Close Up Foundation/Renee Bouchard

Curtis Gans

directs the Committee for the Study of the American Electorate, a nonpartisan research organization that examines the causes of and cures for declining voter participation.

THE DANGERS OF VOTER APATHY

When the followers of right-wing activist Lyndon LaRouche won the Illinois Democratic primary nominations for lieutenant governor and secretary of state in the spring of 1986, the results were greeted with public concern. Yet, this result is the logical outgrowth of an electorate in which only a small percentage of citizens vote and an even smaller percentage is paying attention.

When few people vote, the candidates of a militant few can win.

When few people vote, the forces of an organized special interest have the opportunity to dominate the nation's political dialogue.

When few people vote, the potential for a demagogue to come to power becomes ever greater.

For the past two decades (with the notable exception of 1982 and 1984), a progressively smaller percentage of eligible Americans have been casting their ballots. In each presidential election, more than 80 million eligible Americans fail to vote. In congressional elections, the number of eligible Americans who reject the ballot box rises to more than 100 million.

Over these two decades, the percentage of eligible Americans who vote has declined by 20 percent in both presidential and off-year elections. More than 20 million Americans who used to vote frequently have ceased participating altogether. The United States—with voter turnouts of around 50 percent in presidential elections and 35 percent in off-year elections—now has the lowest rate of voter participation of any democracy in the world.

More than half of America's nonparticipants are chronic nonvoters: people who never or hardly ever vote, whose families never vote, and who are poorer, less educated, and less involved participants in American society. But a growing number of Americans are simply dropping out of the political process—many of whom are educated, white-collar professionals. In addition, a growing number of younger Americans are failing to enter the political process.

Both of these trends constitute a major national concern, for there is a very real danger that the habits of good citizenship will die and that government of the people, for the people, and by the people will become government of, for, and by the few.

There is no predetermined optimal level of voter participation. American democracy has both survived and prospered despite rates of voting lower than many other democracies. But the continuing and sharp decline in the level of voting and citizen involvement cannot help but adversely affect the health of American politics.

Much of the decline in voter participation has occurred during a time when the procedures governing voting have been liberalized. In 1963, shortly before he died, President Kennedy established a commission to investigate the low rate of American voter participation. That commission, reporting shortly after his death, made a series of recommendations, including the abolition of poll taxes and literacy tests, the enfranchisement of blacks and the young, the establishment of voter outreach programs and bilingual ballots, and the shortening of the time between the close of registration and elections.

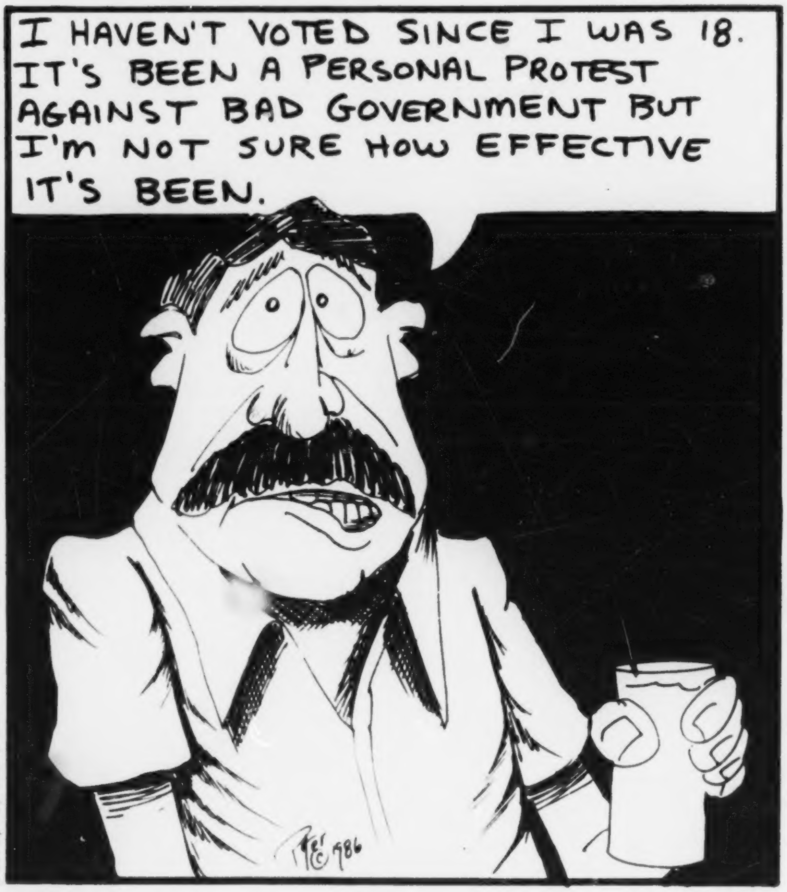
All of these recommendations were enacted either nationally or by a large number of states, but voter participation has continued to go down. This suggests that it is not the *procedures* governing American politics but rather the *substance* of American politics that is at the heart of declining rates of voter participation and public disaffection with the political process.

This is not to suggest that procedural questions are irrelevant to the low rates of American participation. Of all the democracies, the United States stands alone in making voting a two-step act by making citizens qualify themselves for voting through registration. In almost every other nation with elections, the government conducts registration and all citizens have to do is vote.

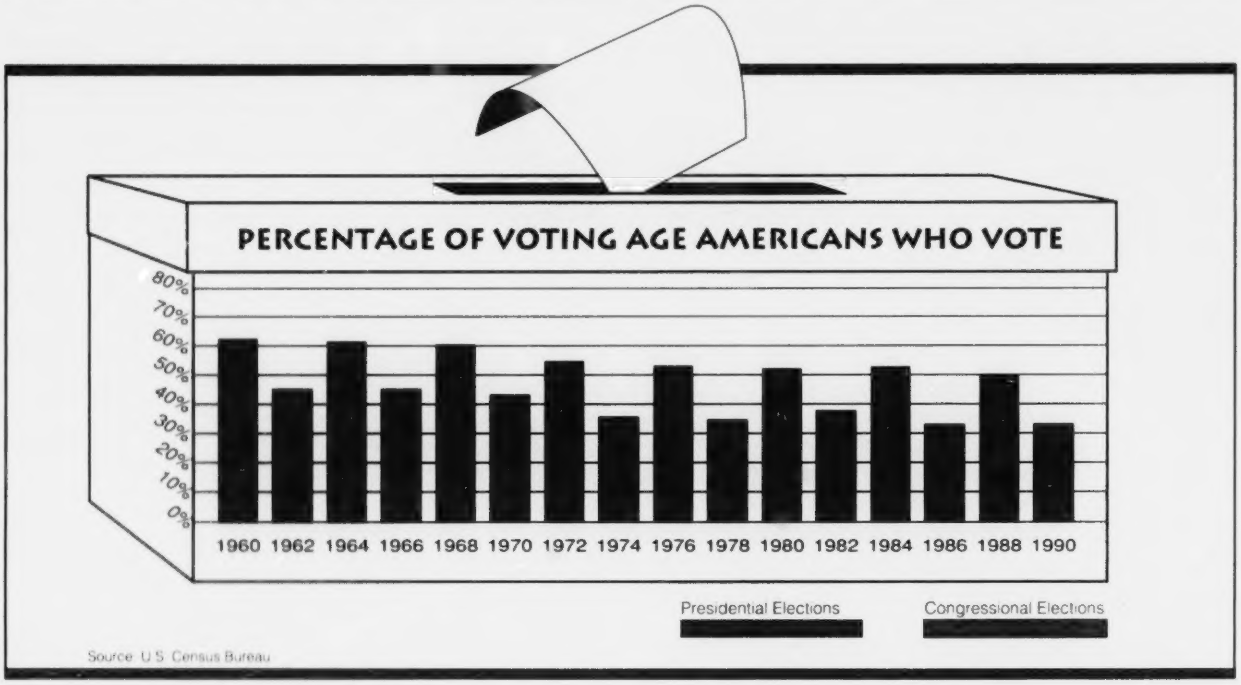
Similarly, the United States is almost alone in conducting as many elections as it does. Almost every year, citizens are called upon to vote for school board or county commissioner while other offices are elected in separate elections, a procedure that seems designed to wear out citizen interest and ensure low turnout. And the amount of information citizens, who depend on television for their news, get in order to make an informed decision tends to be limited to those offices at the top of the ballot.

The United States also tends to have polling and registration hours that are too short, ballots that are too long, and procedures that are often too difficult for the average citizen to understand. But these impediments have always been with us and, in general, have been made somewhat easier. Yet, voter participation has continued to decline.

It has become fashionable in recent years for those in the media to exhort the citizenry to vote and then berate them for the failure to do so. This is, it seems, blame misplaced.


I HAVEN'T VOTED SINCE I WAS 18. IT'S BEEN A PERSONAL PROTEST AGAINST BAD GOVERNMENT BUT I'M NOT SURE HOW EFFECTIVE IT'S BEEN.
Peter © 1986

Close Up Foundation/Peter



Source: U.S. Census Bureau

The scars of the Vietnam War and the Watergate scandal run deep. To many Americans, politics seem to be characterized by poor public leadership, increasingly complex issues, and an ever-growing and inflexible government with few successes in meeting public needs. The public has been called upon to vote in a series of negative elections: *against* Barry Goldwater in 1964, *against* the policies of Lyndon Johnson in 1968, *against* George McGovern in 1972, *against* Jimmy Carter in 1980, and *against* Walter Mondale in 1984.

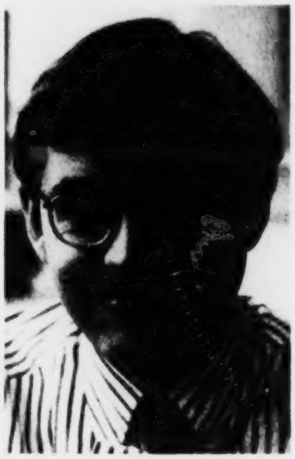
The people have been forced to choose between two competing parties, one of which is associated with right-wing populism and big-business greed, and the other a cacophony of competing interests whose whole is less than the sum of its parts. And Americans get their information in ninety-second blips from a medium that highlights the visually exciting at the expense of the substantively important.

Sadly, for the average citizen, nonparticipation is becoming an increasingly rational act.

Reversing this trend and instilling both hope and vigor among American voters will not be an easy task. But I think a few steps will help improve participation in America. We need to:

- increase the amount and sophistication of civic education in our homes and schools;
- develop policies that address the central concerns of the electorate;
- realign and strengthen the two-party system so that its advocacy is relevant to the electorate and its performance in government is improved;
- supplement the information we receive from television with deeper and more adequate information from other sources;
- regulate political advertising on television so that candidates may respond to negative ads;
- instill in our young people a sense of values that emphasizes something larger than the self and something more enduring than today;
- develop a standard for leadership that makes the term "not unfit to serve" inadequate for public service.

In the end, voting is a religious act. Each citizen must come to believe that—despite the thousands of elections that are not decided by one vote—his or her vote *does* make a difference. It is that faith that needs to be restored.



Paul Hossefros

E. J. Dionne, Jr. *covers national politics for* The Washington Post. *He is the author of the bestselling book,* Why Americans Hate Politics, *from which this article is adapted.*

WHY AMERICANS HATE POLITICS

On the weekend before January 16, 1991, Americans watched an extraordinary event: the Congress of the United States, with seriousness, conviction, and moments of eloquence, debated one of the most serious issues imaginable—should our country go to war?

After years of political game-playing, sound-bite mongering, and just plain foolishness, America's politicians demonstrated that they were, indeed, capable of coming to grips with each other's arguments. It was possible in American politics to debate an issue without questioning the motives of an adversary. It was possible to argue fiercely without leaving the country hopelessly divided. It was even possible to agree on a fundamental issue—in this case, the need to reverse Saddam Hussein's aggression against Kuwait—and then debate thoughtfully over the best means to reach the shared end.

There should, of course, be nothing remarkable about this. Democratic politics is supposed to be deliberative. It is supposed to be about people reasoning together. It is supposed to be about honest disagreement and civil argument.

Yet the event was remarkable because for so many years our politics has been trivial and even stupid. Americans have come to hate politics. We thus face the disturbing question: does it take a war to make us take politics seriously?

Over the last three decades, the faith of the American people in their democratic institutions has declined, and Americans have begun to doubt their ability to improve the world through politics. At a time when the people of Poland, Hungary, and Czechoslovakia are experiencing the excitement of self-government, Americans view politics with boredom and detachment. For most of us, politics is increasingly abstract, a spectator sport barely worth watching. Election campaigns generate less excitement than ever and are dominated by television commercials, direct mail, polling, and other approaches that treat individual voters not as citizens deciding their nation's fate, but as mere collections of impulses to be stroked and soothed.

True, we still praise democracy incessantly and recommend democracy to the world. But at home, we do little to promote the virtues that self-government requires or encourage citizens to believe that public engagement is worth the time. Our system has become one long-running advertisement against self-government. For many years, we have been running down the public sector and public life. Voters doubt that elections give them any real control over what the government does, and half of them don't bother to cast ballots.

Because of our flight from public life, our common citizenship no longer fosters a sense of community or common purpose. Social gaps, notably the divide between blacks and whites, grow wider. The very language and music heard in the inner city is increasingly estranged from the words and melodies of the affluent suburbs. We have less and less to do with each other, meaning that we feel few obligations to each other and are less inclined to vindicate each other's rights.

LIBERALS VS. CONSERVATIVES

Most of the problems of our political life can be traced to the failure of the dominant ideologies of American politics, liberalism and conservatism. My central argument is that liberalism and conservatism are framing political issues as a series of false choices. Wracked by contradiction and responsive mainly to the needs of their various constituencies, liberalism and conservatism *prevent* the nation from settling the questions that most trouble it. On issue after issue, there is consensus on where the country should move or at least on what we should be arguing about; liberalism and conservatism make it impossible for that consensus to express itself.

To blame our problems on the failure of ideologies would seem a convenient way to avoid attaching responsibility to individuals. But to hold ideologies responsible for our troubles is, in fact, to place a burden on those who live by them and formulate them. It is also a way of saying that ideas matter, and that ideas, badly formulated, interpreted, and used, can lead us astray. We are suffering from a false polarization in our politics, in which liberals and conservatives keep arguing about the same things when the country wants to move on.

Conservatives and liberals have distorted their own doctrines and refused to face up to the contradictions within their creeds. Both sides constantly invoke individual rights and then criticize each other for evading issues involving individual and collective responsibility. Each side claims to have a communitarian vision but backs away from community whenever its demands come into conflict with one of its cherished doctrines.

COMMUNITY VALUES

Conservatives claim to be the true communitarians because of their support for the values of "family, work, and neighborhood." Unlike liberals, conservatives are willing to assert that "community norms" should prevail on such matters as sex, pornography, and the education of children. Yet the typical conservative is unwilling to defend the interests of traditional community whenever its needs come into conflict with those of the free market. If shutting down a plant throws thousands in a particular community out of work, conservatives usually defend this assault on "family, work, and neighborhood" in the name of efficiency. Many of the things conservatives bemoan about modern society—a preference for short-term gratification over long-term commitment, the love of things instead of values, a flight from responsibility toward selfishness—result at least in part from the workings of the very economic system that conservatives feel so bound to defend. For conservatives, it is much easier to ignore this dilemma and blame "permissiveness" on "big government" or "the liberals."

The liberals often make that easy. Liberals tout themselves as the real defenders of community. They speak constantly about having us share each other's burdens. Yet when the talk moves from economic issues to culture or personal morality, liberals fall strangely mute. Liberals are uncomfortable with the idea that a virtuous community depends on virtuous individuals. Liberals defend the welfare state but are uneasy when asked what moral values the welfare state should promote—as if billions of federal dollars can be spent in a "value-free" way. Liberals rightly defend the interests of children who are born into poverty through no choice of their own. Yet when conservatives suggest that society has a vital interest in how the parents of these poor children behave, many liberals accuse the conservatives of "blaming the victim." When conservatives suggest that changing teenage attitudes toward premarital sex might reduce teen pregnancy, many liberals end the conversation by accusing the conservatives of being "prudes" or "out of touch."

Not all conservatives and liberals fall into these neat categories, and the questions each side raises about the other's proposals are often legitimate. It often *is* more efficient and socially beneficial to shut down a loss-making plant. It *is* unfair to condemn the poor for sexual practices that we celebrate when those engaging in them live in Hollywood or make millions of dollars in business.

Still, the way in which liberals and conservatives approach the problem of community is a good example of what I mean by false choices. In truth, America's cultural values are a rich and not necessarily contradictory mix of liberal instincts and conservative values. Polls (and our own intuitions) suggest that Americans believe in helping those who fall on hard times, in fostering equal opportunity and equal rights, in providing broad access to education, housing, health care, and child care. Polls (and our intuitions) also suggest that Americans believe that intact families do the best job of bringing up children, that hard work should be rewarded, that people who behave destructively toward others should be punished, that small institutions close to home tend to do better than big institutions run from far away, that private moral choices usually have social consequences. Put another way, Americans believe in social concern and self-reliance; they want to match rights and obligations; they think public moral standards should exist but are skeptical of too much meddling in the private affairs of others.

EITHER/OR POLITICS

One fair reaction to the above is to call it a catalog of the obvious. But that is precisely the point: that the false choices posed by liberalism and conservatism make it extremely difficult for the perfectly obvious preferences of the American people to express themselves in our politics. We are encouraging an "either/or" politics based on ideological preconceptions rather than a "both/and" politics based on ideas that broadly unite us.

In our efforts to find our way toward a new world role, we would do well to revive what made us a special nation long before we became the world's leading military and economic power—our republican tradition that nurtured free citizens who eagerly embraced the responsibilities and pleasures of self-government. With democracy on the march outside our borders, our first responsibility is to ensure that the United States becomes a model for what self-government should be and not an example of what happens to free nations when they lose interest in public life. A nation that hates politics will not long survive as a democracy.

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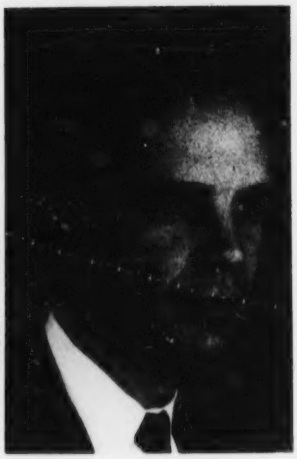
Reuters/Bettmann

In June 1989, thousands of Chinese students in Tiananmen Square demonstrated for democracy.


The White House/Carol T. Powers

C. Gregg Petersmeyer

is assistant to the president and director of the White House Office of National Service, which promotes voluntary community service, also known as the Points of Light movement.

VOLUNTEERISM: THE POINTS OF LIGHT MOVEMENT

You would have to have been living in a cave for the last several years to believe that government alone will solve the critical social problems now facing America. For the past half century, all kinds of government programs have spent trillions of dollars, but hunger, homelessness, drug abuse, and illiteracy remain.

Likewise, the 1980s proved economic growth alone is no cure-all. A prosperous economy can provide opportunity, but economic growth alone will not lift a homeless person into a productive role in society nor win our cities back from crack.

Our ancestors built a great nation because they worked hard in their families, businesses, and community organizations to increase their quality of life and to help others do the same. They recognized that the best way to solve a problem was to roll up their sleeves and get their hands dirty. They lived by the motto, "If you want something done, and done right, you have to do it yourself."

In this spirit, President Bush has placed voluntary community service at the top of the national agenda. He calls it "Points of Light." The term was first used during the 1988 campaign to describe the president's vision of an America where all people would engage in service aimed at solving serious social problems within their communities. Since then, the phrase "a thousand points of light" has quickly become a household saying, synonymous with a 1990s renewal of the age-old American ethic of neighbor helping neighbor.

A MOVEMENT, NOT A PROGRAM

Points of Light is a *movement*, not a government program. Like the civil rights movement or the environmental movement, Points of Light works at the grassroots level through individuals and institutions to change fundamentally the attitudes and behavior of American society in order to attack our critical social ills. It seeks nothing less than to build within individuals the habit of service and within society a culture that values, fosters, and expects direct and consequential voluntary service from everyone.

The Points of Light movement is composed of individual Points of Light. A Point of Light is a third-grade class making daily phone calls to homebound senior citizens, a business executive who befriends a troubled youth, or a carpenter who builds low-cost housing for needy families. It is any individual, business, union, school, house of worship, social club, civic group, or other organization that claims society's problems as its own by voluntarily taking direct and consequential action to solve the problem.

Why are Points of Light necessary? Listen to the facts. Today, 135,000 children carry guns to school. About 25 million adults can't read. Two out of every five teenage girls become pregnant before they celebrate their twentieth birthday.

These numbers point to a troubling loss of hope for too many Americans. Homelessness, poverty, illiteracy, drug abuse, and other social problems are really symptoms of larger, more fundamental problems that programs cannot solve: the breakdown of the traditional family structure; the disintegration of communities; the loss of self-respect and, most importantly, hope. What millions of Americans who live in darkness need most is not a program, but a web of family-like relationships that imparts the values, habits, skills, and self-confidence to convince them that their future is not limited by present conditions. This is why President Bush has made Points of Light a hallmark of his administration and why this mission is so urgent.

DAILY POINTS OF LIGHT

One way President Bush has propelled the movement forward is to use the platform of the presidency to recognize a Daily Point of Light. Intended as a national tribute of the highest order, Daily Points of Light are individuals and organizations who are successfully addressing the root causes of critical social problems through innovative and hands-on acts of community service. By recognizing a Daily Point of Light six days a week, the president is collecting a stockpile of solutions that are actually solving our serious social problems right now. As of June 1992, more than 800 Daily Points of Light have been recognized.

Take Linda Warsaw of San Bernardino, California, for example, who is the 250th Daily Point of Light. In 1985, at the age of twelve, Warsaw founded Kids Against Crime, which teaches children not only how to prevent crime, but also what to do if a crime occurs. Volunteers of Kids Against Crime operate the Peers Support and Referral hotline. These volunteers, ranging in age from twelve to nineteen, commit at least three hours per week and are trained in subjects such as child abuse, sexual abuse, AIDS, pregnancy, substance abuse, suicide, and runaways. They answer phone calls to the hotline, offering advice and support to their peers.

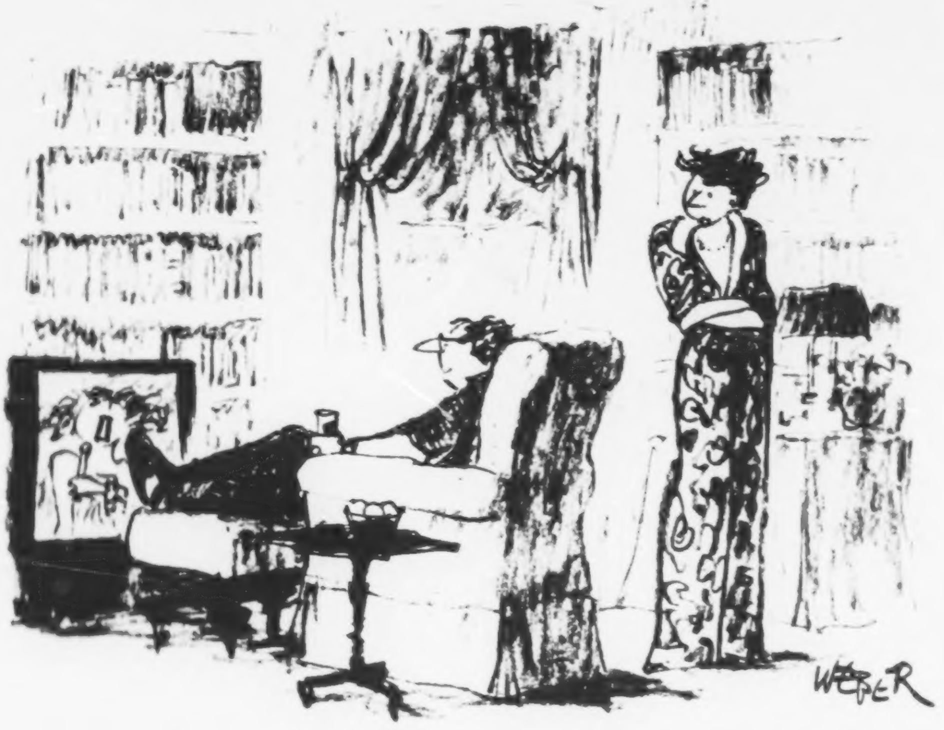
Daily Point of Light number 124, the Midnight Basketball League of Glenarden, Maryland, started in response to escalating crime and drug-related violence. The program runs between 10:00 p.m. and 2:00 a.m., three nights a week during summer. Between each game, professionals offer workshops on educational opportunities and the dangers of drug use. Because the basketball games are fun and competitive, the participants stay off drugs in order to play their best. Since its founding in 1986, crime has dropped by 60 percent in the surrounding community. This idea could be implemented in any community in America, and in fact it has been replicated in thirteen major cities nationwide. That is what Daily Points of Light recognition is all about.

While those recognized by the president represent outstanding examples of community service, they are only a small sample of the Points of Light shining across America. The president's vision is that ultimately entire communities will be transformed into "Communities of Light"—communities filled with Points of Light. In a Community of Light, leaders in each school, business, place of worship, club, and organization would lead their members toward the light of service as equal partners in solving social problems. In a Community of Light, all people would discover the fulfillment that comes from helping others in a direct and consequential way.

A MOVEMENT OF HOPE

As you can see, Points of Light is really a movement of hope. But how can we turn individual and community efforts into a powerful national Points of Light movement?

Soon after the 1988 election, President Bush outlined a three-part strategy to do just that. The first priority is to change the nation's attitudes toward service so that every individual and organization in



"I used to think of you as one of the thousand points of light, but you've gone out."

Drawing by Weber; © 1990 The New Yorker Magazine, Inc.

America, from the largest corporations to local student governments, claim society's problems as their own. To do this, organizations and institutions must make community service an integral part of their culture. People must see how their individual talents—the things they do best and enjoy the most—can be applied to solve social problems. For example, it makes sense for homebuilders to help the homeless and for restaurants to feed the hungry.

Second, we must identify, enlarge, and multiply ideas and initiatives that are already working. That is why, in 1989, President Bush began recognizing an individual or organization doing outstanding community service with the Daily Point of Light Award, and why, in hundreds of statements and at public events throughout his presidency, he has called on all Americans to become Points of Light and called on leaders to create Communities of Light where they live.

Finally, we must discover, encourage, and develop the untapped potential of countless people in each community throughout America. President Bush has often said, "Every American has a gift to give." Each of us has an innate desire to help those in need, and all of us possess unique talents or skills that can be used to solve our serious social problems.

To implement this strategy, the president has created or helped establish four institutions: the White House Office of National Service, the Points of Light Foundation, the Commission on National and Community Service, and the National Risk Management Institute. These organizations share a common vision to build a national movement that establishes community service as central to life in America for all citizens and all institutions.

MAKING A DIFFERENCE

After traveling through the United States in the early 1830s, the French historian and politician Alexis de Tocqueville wrote, "The health of a democratic society may be measured by the quality of functions performed by private citizens." An effective and vibrant democracy requires, above all, the participation of an engaged populace. The Points of Light movement seeks to engage all Americans as never before in an all-out attack on the social decay and loss of hope for too many Americans.

Now we must turn to the light of hope in which every American helps solve our critical social problems through direct and consequential service to those in need. As Cari McRae, a volunteer with the first Daily Point of Light, *The Memphis Commercial Appeal*, says, "I do give off light, and I do make a difference. My challenge to you is to make a difference."

ACTIVISM IN THE LATINO COMMUNITY

Mexican American Legal Defense and Educational Fund

Antonia Hernandez

is the president and general counsel of the Mexican American Legal Defense and Educational Fund (MALDEF), a national Hispanic civil rights organization headquartered in Los Angeles.

One of the more gratifying aspects of our form of government is that this country's citizens have the opportunity to voice their opinions on any number of issues, in any number of ways. Citizens can work through the legislative process, the judicial system, and community organizations. This ability to seize opportunities and positively affect the outcome of important issues enables Latinos, persons of Hispanic origin living in the United States, to believe in the process and work within the system to bring about needed social change.

This synergy of public policy, litigation, and community represents activism in its truest sense and has resulted in increased empowerment of the Latino community. The sense of power and control of one's own destiny is only achieved through a long-term commitment to the Latino community by those willing to work constructively for positive change. Such change will open doors of opportunity in employment, ensure that the voting rights of Latinos are respected, enable Latino children to receive a high-quality education, safeguard the rights of immigrant workers, and guarantee that all Latinos have access to justice. But change, in whatever form, does not come easily, and Latinos have looked to activism as a catalyst for change.

Activism is nothing new in the Latino community. Heroic efforts by Latinos began back in 1873 when the first community organizations or "mutualistas" were organized throughout the southwestern portion of the United States. While primarily social organizations, mutualistas also served other important functions: they collected monies to provide decent burials for poor Chicanos, persons of Mexican descent; they met to determine how best to deal with police brutality, school discrimination, or job exclusion; and they provided a good training ground for future leaders within the Latino community.

Also, the Orden de Hijos de America, founded in San Antonio, Texas, in 1921, fought for the advancement of Mexican Americans. And the League of United Latin American Citizens (LULAC), founded in 1928, established preschools that taught English to Chicanos. The American G.I. Forum, begun in 1948, also began actively working for social reforms.

Initially, some of the activists were faced with many obstacles in their efforts to test the civil rights of Chicanos in the courts. In 1930,

Jose Arturo Lopez

In a door-to-door campaign, Latino organizations used the slogan, "¡Hágase Contar! Make Yourself Count!" to educate their communities about the 1990 census.

Mexican-American attorneys worked with Anglo lawyers to protest school segregation in Texas. They won at trial but lost on appeal because the court held that school boards could reasonably place Chicano and white elementary school children in totally separate schools.

Fortunately, these early activists did not let setbacks curb their determination to fight for the rights of Latinos, and those who have followed in their footsteps recognize the tremendous task before them. Still, many have eagerly taken up the mantle of responsibility with a strong sense of commitment and dedication to move the Latino community forward.

Today, there are hundreds of organizations similar to the Mexican American Legal Defense and Educational Fund (MALDEF) at the national and local level that are dedicated to working on behalf of the Latino community. LULAC continues to be involved with organizations working for change within the legal system, and it pushes for equal opportunity in education and employment for all Latinos. The Cuban American National Council conducts research and initiates economic expansion through community development. The National Council of La Raza, a think tank based in Washington, D.C., spends considerable time analyzing issues in education, housing, health, and employment and suggests remedies to resolve these problems.

In addition, Aspira (Spanish for "aspire"), an organization that looks at a variety of issues within the Puerto Rican community including education and poverty, is dedicated to encouraging and promoting education and leadership development among Hispanic youth. There also is Comision Fernenil, the Kansas Advisory Committee on Hispanic Affairs, the Mexican American Political Association, the National Hispanic Institute, Ayuda (Spanish for "help"), the Mexican American Women's National Association (MANA), the National Association of Latino Elected and Appointed Officials (NALEO)—the list is endless.

Each of these groups has engaged in proactive strategies to achieve the goal of empowering their respective communities and the Latino community as a whole. And we have seen, time and again, that when dedicated individuals come together to promote a common goal, there is no limit to what can be accomplished. The 1990 census is a perfect example.

Hundreds of Latino organizations throughout the country joined forces in the most far-reaching and successful educational outreach effort ever, organized around the 1990 census count. Thousands of Latinos in cities and states across the country developed a proactive, multifaceted campaign strategy. It encompassed extensive use of mass media; participation of national and local Latino organizations across the country; the input of Latino elected officials, community activists and other leaders; and an aggressive litigation strategy to deal with the various legal issues that arose in the courts—all to ensure the most accurate count possible of the Latino community. The results were impressive. While bureaucratic failings by the government prevented a more accurate count of the Latino community, Latinos were the most informed community about the 1990 census, according to the U.S. Census Bureau's own findings.

The knowledge and expertise gained from the 1990 census campaign were put into operation once again during the 1991 redistricting process. State and local legislatures around the country began to redraw district boundaries and determine the political future of their citizens. The recognition that Latinos—through organization and a deep commitment to change—could dramatically alter the face of politics provided the Latino community with an overwhelming sense of purpose that carried it through one of the most contentious, and most important, redistricting battles of this century.

Latinos persevered, with computer capabilities previously unheard of, with new heights of political sophistication, and with the ability to maximize the extraordinary Latino population growth. In the end, Latinos were successful in their efforts to protect the voting rights of Latinos and to increase the opportunities for Latinos to elect representatives of their choice. While Latinos have increased opportunities to elect representatives, opportunities alone do not guarantee increased representation, and the dramatic increase in numbers does not automatically translate into increased political power.

That is why the Latino community is now engaged in its latest challenge and its next round of activism. To ensure that the Latino community exercises its fundamental right to vote, participates in the political process, and maximizes its potential as outlined in the redistricting efforts, Latino activists are designing and implementing massive voter registration programs, citizenship drives, and get-out-the-vote campaigns in cities and counties throughout the United States. Only this kind of mobilization will ensure that the gains Latinos have hoped for will become a reality.

CASE STUDY

The People

HOMELESSNESS AND TREVOR FERRELL

by Nancy A. Bergman

This is the story of how one person, Trevor Ferrell, made a difference in his community by helping the homeless. As you read, try to answer these questions:

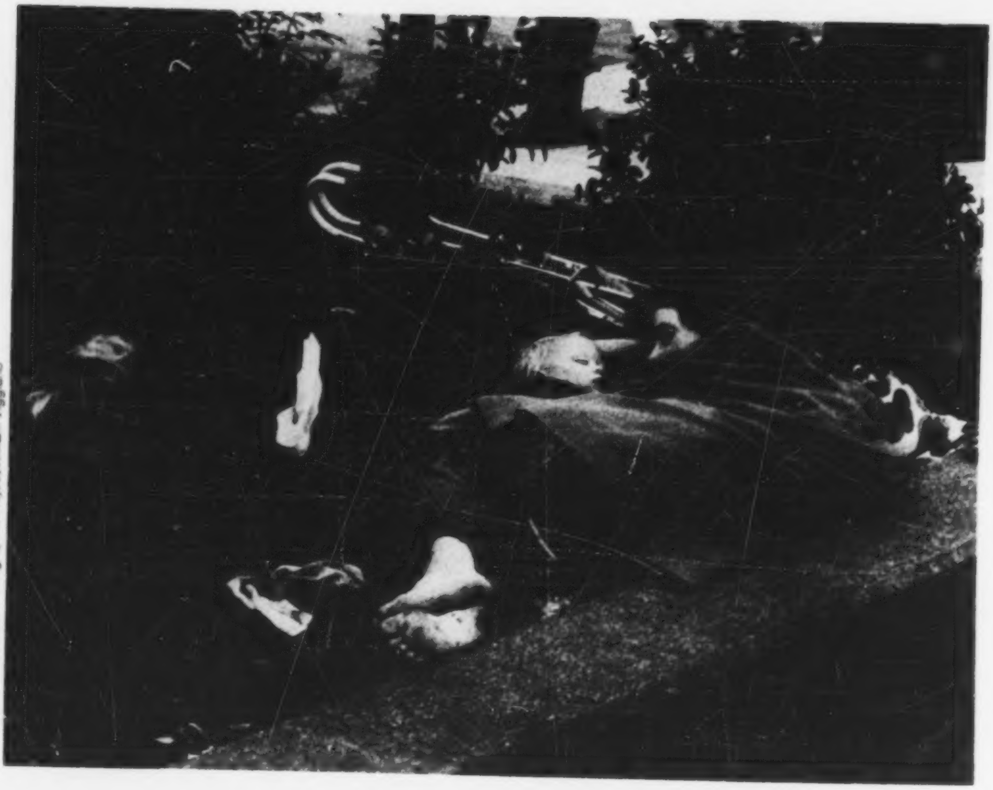
- *Why are some Americans homeless?*
- *What does the government do to help the homeless?*
- *What programs does Trevor's Campaign offer?*
- *What can teenagers and others do to help the homeless?*

Trevor's Campaign for the Homeless

No one knows how many people in America are homeless. Estimates range from 250,000 to 3 million. Many homeless people live in public shelters, abandoned buildings, and cars. The luckier ones may be able to live temporarily with friends or relatives, while others simply live on the streets and in parks. Some homeless people have low-paying jobs but cannot afford to pay rent. Many others are unemployed and have to beg for money and food. Some of the homeless receive help from public and private social service agencies. They may receive free meals at a local soup kitchen and clothing and blankets from charities. In what many consider a land of plenty, homelessness seems to be a blight on many communities throughout the United States.

Homeless people come from many backgrounds. Studies have estimated that half of the homeless are single men. However, 14 percent are single women, and about 30 percent are women with children. Roughly one-third of the homeless are veterans.

Many factors are believed to contribute to homelessness. While it is usually a combination of these factors that puts a person on the streets, the main cause of homeless-



Homeless in America A Photographic Project/William Viggiano

Street people are a common sight in many cities, where they live in abandoned buildings, cardboard boxes, parks, cars, or on the streets. Estimates of the nation's homeless range from 250,000 to 3 million.

ness is poverty. Many poor people simply do not have enough money to pay for housing, food, and other necessities. An estimated 24 percent of homeless people have jobs and yet cannot afford a place to live. When the poor lose jobs, they are sometimes unable to find new employment, especially if they lack skills. Without a regular paycheck, some of these people are forced to live on the streets. Poverty can be a particular problem for those on fixed incomes, such as the elderly.

Some people blame cutbacks in social programs for some of today's homelessness. They claim that cuts in benefits for the elderly, disabled, and single mothers have made it more difficult for people to afford housing.

Another cause of homelessness has been the lack of affordable housing for people with low incomes. In 1949, the government passed the Federal Housing Act, which for decades provided money to build housing units for low-income people. However, in the 1980s, federal support for low-income housing fell from $32 billion to $7 billion by the end of the decade. During that same time, more than 15,000 public housing units were torn down or sold. Some low-income housing units are lost when landlords renovate buildings to attract higher wage earners who will pay higher rents.

An estimated 23 percent of the homeless are mentally ill. Although some of these people may have become ill while living on the streets, many were already having problems when they became homeless. Beginning in the 1960s, many patients were released from institutions for the mentally ill if they were not considered dangerous to others. Between 1963 and 1986, nearly 370,000 such patients were deinstitutionalized, as it is commonly called. Experts believed that these men and women could be better treated at less expense through state and local programs in 2,000 community centers that were to be established across the country. However, most of these programs were never developed, leaving many of the mentally ill untreated and without homes.

Other social factors also contribute to homelessness. As some companies moved from cities to suburbs, their poorer workers stayed behind hoping to find new employment. However, some of these workers found that they were unqualified for the new jobs being created in the cities. Many of these jobs were for professional, white-collar workers. The resulting unemployment has caused some to lose not just their jobs, but their homes as well.

There are those who blame broken family relationships for some of today's homelessness. Runaway youngsters who flee from problems at home are often unable to get legal jobs and turn to crime or prostitution and to living on the streets. Domestic violence makes some women homeless.

Substance abuse is another problem for many homeless Americans. Studies estimate that 30 to 40 percent of the homeless are alcoholics and 10 to 15 percent are drug abusers. Young addicts who are no longer welcome at home find themselves on the streets. Others who are addicted to drugs or alcohol are unable to hold jobs and pay rent because of their habits.

COUNTING THE HOMELESS

Estimating the number of homeless Americans is difficult because they are hard to find. Some live with friends and relatives. Others, who live in out-of-the-way streets or alleys, may move from place to place. Although many organizations have attempted to count the homeless, their estimates vary widely. The Census Bureau attempted to record the number of homeless in the 1990 census by totaling the number of people in emergency shelters and simply having its workers count people they saw on the streets. However, homeless organizations contend that the Census Bureau count missed many of the homeless and is too low.

ORGANIZATION	**ESTIMATE**
Census Bureau *(count done March 20-21, 1990, including 178,828 people in emergency shelters and 49,793 counted on the street)*	228,621
Department of Housing and Urban Development/ Council for the Homeless *(based on Urban Institute Count of 1985-86)*	600,000
Center for Creative Nonviolence	3,000,000
National Alliance to End Homelessness	600,000-3,000,000
National Law Center *(annually)*	up to 3,000,000
National Coalition for the Homeless *(on any given night)*	3,000,000
The Interagency Council on the Homeless *(on any given night)*	700,000

HELP FOR THE HOMELESS

The government provides some help for homeless Americans. Federal funding for the homeless totals $1 billion a year. Some of this money goes to programs developed under the nation's major law dealing with homelessness, the Stewart B. McKinney Assistance Act of 1988. This law gives money to emergency shelters, job training and literacy programs, health care services for the homeless, and drug and alcohol abuse treatment programs. The government is also involved in helping low-income tenants at public housing projects. The National Affordable Housing Act of 1990 helps public housing tenants to manage their buildings and buy their apartments. The federal government also gives state and local governments money to construct low-income housing, rehabilitate such projects, and help their tenants pay rent. City governments also run emergency shelters and provide funds to renovate low-income housing for homeless residents.

Most government programs are overwhelmed by the number of homeless people and cannot provide housing and assistance to everyone in need. However, the plight of these people has not gone unnoticed everywhere. In many communities, churches, charities, and private organizations have reached out to homeless people. Such groups provide food, clothing, shelter, medical care, treatment programs, and education. In Philadelphia, one effort to help the homeless was spearheaded by an eleven-year-old boy named Trevor Ferrell.

TREVOR DISCOVERS THE HOMELESS

Young Trevor Ferrell lived in Gladwyne, a suburb of Philadelphia. His family owned a sixteen-room home with a kidney-shaped swimming pool and two acres of woodland. Living in suburbia and attending a private school, Trevor had no idea that some Americans lived on the streets. He was busy being an eleven-year-old—playing Pac-Man and riding his motorbike. However, his life changed on December 8, 1983, when he saw a television news report about homeless people. He was stunned when the news reporter said that about 2 million Americans were homeless, including about 10,000 people who lived on the streets in nearby Philadelphia, "the city of brotherly love." Trevor later remarked, "I couldn't believe people lived that way. I knew there were some poor people in the world. I thought they were all in other countries, not in my country or my city."

Trevor begged his parents, Frank and Janet, to take him downtown that evening to help the homeless. His parents reluctantly agreed. Just before leaving, Janet pulled out a blanket from a closet and Trevor took a pillow from his bed.

The three drove eighteen miles to downtown Philadelphia in the family station wagon. They stopped when they spotted a man sleeping on a subway steam grate. Trevor approached the man, saying, "Sir, here's a blanket for you." Trevor also gave him the pillow. The man thanked the boy, and Trevor and his father joined his mother, who was waiting in the car.

Trevor said that this first encounter with a street person was a bit surprising for him. "I was a little nervous and scared not knowing

Trevor's Campaign for the Homeless

Eleven-year-old Trevor offers friendship and help to some of Philadelphia's street people.

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Trevor's Campaign for the Homeless

Every night of the year, Trevor's Campaign vans serve 150 to 200 meals to street people in Philadelphia. Up to seven people help each night, serving food that other volunteers have prepared.

what would come of it. You hear stories about inner-city people. I was from the suburbs, not from the city. But the man was very nice, and it turned out very well. I've always been surprised at how grateful the homeless are for something as small as a pillow and blanket." Little did he know then that this first contact with a homeless person would lead to Trevor's Campaign for the homeless.

THE CAMPAIGN DEVELOPS

The next evening, the three Ferrells again headed downtown with two more blankets. Soon they were making three or four trips downtown each week. They planned a regular route, where they could expect to see about ten homeless people. They would deliver their supply of blankets, coats, and sweaters. The family soon ran out of extra, rarely used clothes and blankets that they could give to the homeless on their nightly runs.

Trevor suggested asking other people to donate items. He made a notice explaining what his family was doing. He asked people to bring donations to his father's electronics store and promised to pick up items that could not be left there. Frank Ferrell posted the notice in his shop.

Gradually, coats and blankets appeared at the store or the Ferrell home. An anonymous donor gave the Ferrells a blue Volkswagen van for the downtown trips. Trevor installed a metal pole in the van to serve as a clothes rack. During the downtown trips, the family would open the van's doors to allow homeless people to browse through the clothing selections.

Trevor's next idea was to solicit clothing contributions through the local newspaper. Janet drove him to the newspaper's office, and Trevor entered alone to talk to someone about publishing his request. Instead of printing a notice, the newspaper published an article about the nightly visits to Philadelphia by Trevor and his parents. One of the reporters accompanied them in the van, took photographs, and wrote the article. The reporter coined the phrase "Trevor's Campaign," and it stuck.

From that first encounter with the media came many more. Soon local television stations, Philadelphia newspapers, *The New York Times,* and the national wire services featured stories about Trevor. Less than a month after his first trip downtown, Trevor's efforts had received nationwide publicity. This press coverage helped to further the campaign by letting the public know that the Ferrells were accepting clothing donations for the homeless.

Soon clothing, food, and monetary donations began to pour in. People who had heard about the Ferrells' work volunteered to make or serve food for the homeless. Many came to the Ferrells' home with casseroles, soups, sandwiches, and cupcakes. McDonald's donated hamburgers for the nightly runs. Eventually the number of volunteers became so great that a volunteer coordinator took over the task of planning the food deliveries every evening from 6 p.m. to 9 p.m. Within two years, more than 1,000 volunteers were making and delivering hot meals each evening.

The campaign did not develop without some struggles. When the downtown trips first began, the Ferrells only allowed Trevor to go if he had finished his homework. Yet schoolwork was always hard for Trevor because he has dyslexia, a reading disability. In the first year of the campaign, Trevor had a particularly tough year and had to repeat the sixth grade. His parents curtailed his involvement during the school year to weekends only. But the van was always staffed because so many people from all walks of life volunteered to help. Those who have helped staff the van include a group of mentally handicapped men and women and students from a school for the hearing impaired. Boys and girls clubs, scout troops, Rotarians, and volunteers from local churches and synagogues regularly help serve 150 to 200 meals every evening. The van takes groups of up to seven volunteers who serve the casseroles and sandwiches that hundreds of others prepare.

TREVOR'S PLACE

In March 1984, less than three months after the first downtown visit, Trevor's Campaign took on a new project. The campaign decided to open a homeless shelter as a more permanent way of getting some of the homeless off the streets.

Again it was Trevor who initiated the idea. One evening Frank and Trevor were driving past a block of abandoned buildings in Philadelphia. Trevor had asked, "Why should people be living on the streets when there are these houses that are already built with no one living in them? Why can't we get one of these empty places for the street people?"

So the Ferrells began investigating the possibility of starting a shelter for the homeless. Because they had never run such a facility before, they required help from others. One group that offered to help was the Peace Mission, a local religious organization, which donated an abandoned building to Trevor's Campaign for use as a shelter.

The building had once been a thirty-three-room hotel. Now, after having been unoccupied for at least three years, it was dirty and inhabited by mice. Neither the building's plumbing nor the kitchen's appliances showed any sign of working. The walls, ceilings, and lights needed repair. But the building was theirs if the Ferrells wanted it.

More offers of help came. A local law firm offered the Ferrells free legal services, and a local social service group agreed to help them start a nonprofit organization to carry on their work. These people helped the Ferrells to found Trevor's Campaign, which became the official name of the new organization, although the media had been using it for months. Frank and Janet Ferrell became managers of Trevor's Campaign and were responsible for the nightly food runs, visits to churches and schools to talk about working with the homeless, and the soon-to-be shelter.

However, running both the campaign and the electronics business began to take a toll on Frank Ferrell. It was too much work for one person to handle. At first, he was hesitant to devote himself full-time to the fairly new campaign after spending twenty years building the business that made it possible for him to own an expensive home in the suburbs and to send his children to private schools. Eventually, Frank decided to sell his electronics store and devote himself full-time to the campaign begun by his son Trevor.

To learn about running a homeless shelter, Frank and Trevor visited a homeless residence in New York City. Meanwhile, renovations on the

Trevor's Campaign for the Homeless

Trevor's Place, a building donated by a local religious organization, was transformed from an abandoned building into a home for the homeless. Trevor's Place offers temporary housing for about forty homeless people.

old hotel in Philadelphia continued. The work was sometimes hard, and often the improved furnishings brought to the hotel were stolen while the building was still unoccupied. Yet weekend after weekend, volunteers arrived to clean, repair walls, and scrape away old peeling paint. The renovation proceeded gradually. As money was donated, supplies were purchased and repairs were made. The state of Pennsylvania donated $67,000 to help with the home, and President Ronald Reagan gave $100,000 left over from his inaugural fund.

Finally, the home opened on March 18, 1984, Frank's birthday. Three homeless men who had been sleeping on steam grates in the city became the first residents of the renovated building. They also helped to answer the phones, greeting callers with "Hello, Trevor's Place." This greeting became the name of the new shelter. The essential renovations work had been completed, but the kitchen was still inoperable. The food van stopped by Trevor's Place each evening to deliver dinner to the men before making its rounds. The kitchen was eventually rebuilt and refurnished through donations and volunteer labor.

Trevor's Place houses forty people, and the average length of stay is nine months. At the home, residents receive food and clothing, acquire basic living skills with the help of Trevor's Place staff, and set up an account to save for future housing. They learn to manage their finances and to use community resources. They also do volunteer work for Trevor's Campaign or with other nonprofit organizations. Eighty percent of the residents at Trevor's Place go on to find housing and jobs with the help of the staff at Trevor's Place. Examples abound. One homeless man came to Trevor's Place unable to read and write. The staff helped place him in a literacy program and get a job as a security guard. Trevor's Place has helped families, too. Travelers Aid once referred a couple and their two children to the home when their car broke down. This family knew few people in the Philadelphia area. Job counselors helped the husband get a job at a packing company and the wife obtain employment as residential coordinator in a youth program.

Trevor's Place residents are able to find job openings through the Opportunity Industry Council, the Private Industry Council, the Job Center of the Veterans Administration, and other organizations. The residents have received education and job training from the Lutheran Settlement House, the Urban League, the Educational Training Program of the Department of Public Welfare, the Office of Vocational Rehabilitation, and other groups. Many of them have completed the equivalent of a high school education, obtaining their general equivalency diplomas (GEDs) while living at Trevor's Place.

Trevor's Place also offers a complete medical station, thanks to Smith-Kline-Beecham, a major prescription drug manufacturer. A volunteer doctor and a nurse come in every other week to take care of the residents' health care needs, and St. Joseph's Hospital provides free care when residents need hospitalization.

THRIFT SHOP

In 1987, Trevor's Campaign opened a thrift shop to house the many donated items that could not be used directly to meet the needs of the homeless. The store provides used clothing and household items to homeless and low-income people. The thrift shop is a 7,000-square-foot store in a low-income ethnic neighborhood. It collects donations of food, clothing, furniture, sheets, blankets, curtains, towels, lamps, dishes, toasters, pots, pans, and other household items. Every morning, boxes and trash bags of donations are waiting to be sorted and arranged in the store. Rarely do the workers catch up. The shop has been able to supply furniture, some of it refinished by volunteers, to its low-income neighbors who might otherwise not be able to afford any. All sales from the thrift shop benefit the campaign. The store also gives free clothing to the residents of Trevor's Place, who are able to select their own clothing from the store's collection. When they leave Trevor's Place for permanent housing, the thrift shop gives them furniture, dishes, sheets, towels, and other household items they will need in their new homes. Once a week, clothes are taken to the street people.

NEXT DOOR

In 1991, Trevor's Campaign purchased the building next door to Trevor's Place and called it "Next Door." Next Door was once a convent used by the Catholic Church. The campaign was able to purchase the building with $40,000 in individual contributions and a $60,000 grant from the U.S. Department of Housing and Urban Development. Trevor's Campaign opened Next Door to help mothers, who have a particularly hard time when they have nowhere to live. Next Door offers forty women and children shelter, food, clothing, medical care, and family and job counseling.

Next Door also provides day care so that mothers can attend school or job training, which will eventually help them get work to support their families. The day care center is also open to children in the surrounding neighborhood who have homes but need care while their parents work. Known as the Learning Center, the program is housed in Next Door and enrolls about twenty-five children, including children from Trevor's Place and the neighborhood. The center is staffed by professional teachers who help preschool children learn essential skills like their ABCs. They also instruct older children who are waiting to enter the local public schools.

The White House/Pete Souza

Trevor was honored on four different occasions by President Ronald Reagan, including an award presented at the White House on April 25, 1985.

When the homeless first move into one of the campaign's homes, the children are sometimes unable to start school right away if they are from out of town or previously had no address. While the necessary arrangements are made at the local school, Learning Center teachers help students improve their reading, math, and other skills.

THE NEXT STEP

Next Step began when a woman informed the campaign that she was leaving it three buildings in her will. Frank Ferrell visited the woman to thank her and to give her a copy of *Trevor's Place*, a book about Trevor's Campaign. The woman responded by saying, "Why wait until my death? Why don't I give you one house right now?"

That house became the center of a new program called Next Step. Next Step is a low-income housing program for former residents of Trevor's Place and Next Door. Unlike Trevor's Place and Next Door, Next Step leases its space to former homeless people. Its residents pay rent to Trevor's Campaign and begin a new stage in their lives, often armed with a new job and new skills. Next Step began as one three-level row house, but Frank Ferrell hopes that in the future, the campaign will have many similar buildings that can serve as the "next step" for former homeless families. The building is large enough to house more than one family at a time. Individuals can also live at Next Step.

TREVOR'S CAMPAIGN ELSEWHERE

Trevor's Campaign has sparked efforts to help the homeless outside of Philadelphia. Sixteen associate organizations design and run their own local programs to meet the needs of the homeless. Although these groups are not formally part of the campaign, they all say they were inspired by Trevor's story. The campaign helps interested people form groups to assist the homeless in their area. Many of these groups, although not all, were started by teenagers or even younger children.

Trevor's Campaign gets many requests from individuals and groups about ways to help homeless people. The campaign suggests that people pray for the homeless and those striving to help them. Many organizations such as the Salvation Army, Red Cross, Jewish Charities, Catholic Charities, and other religious groups and charities operate shelters and soup kitchens. By researching local organizations, interested individuals may find homeless programs that use volunteers and accept donations of money or clothing. Volunteer work for the homeless might include making casseroles, sandwiches, coffee cakes, and cookies and collecting canned goods from churches, schools, and other groups. Another way to help the homeless is to collect and distribute sheets, toothpaste, toothbrushes, soap, wash cloths, shampoo, and other personal items to those living in shelters and on the streets. Blankets, sleeping bags, and pillows are essential for people who live on sidewalk grates and in public parks. The campaign suggests that if people deliver the donations themselves, they should develop a regular route so that the street people will wait for them to arrive. A consistent route also allows volunteers to get to know the homeless by name. Trevor says that "being there with the homeless and talking to them is important. I thought that they would be different, but they're just human beings like us. They just got laid off work or evicted from their homes."

Trevor's Campaign also suggests that individuals learn about issues related to homelessness and bring them to the attention of the media and policymakers. Writing a letter in response to a newspaper article about the homeless keeps the issue in the press and may prompt more coverage about the homeless. Individuals are also encouraged to write to the president, members of Congress, and local officials to tell them that something needs to be done to help the homeless. Such letters could ask for more research into curing mental illnesses, additional support for families caring for mentally ill relatives at home, better community mental health centers, more low-income housing, help for the unemployed and the abused, and programs to help alcoholics and drug addicts.

The campaign recognizes that not everyone can help the homeless on a regular basis, but it suggests that everyone can contribute something to help solve the problem, even if it's only once a year. Its list of suggestions is not exhaustive, and the campaign encourages people to come up with their own ideas to effectively help people in their communities who do not have homes.

TREVOR AND THE CAMPAIGN TODAY

When Trevor helped one homeless man on a subway grate in December 1983, he never dreamed his effort would become what it is today. The Campaign includes 1,300 volunteers, two shelters for the homeless, a thrift shop, a low-income home, and vans for the thrift shop and the nightly food runs. The Campaign employs thirty people and has an annual budget of $1.5 million.

Trevor is one of the campaign's employees, although he says that he is the lowest paid person on the staff. He has worked full-time for the campaign since he graduated from high school in 1990. He works at the thrift shop picking up and delivering donations and doing other work as needed from 8 a.m. to 5 p.m. He then goes to Trevor's Place to spend his evenings talking to the residents or playing with the children there. Sometimes in the evenings he helps the residents move their belongings out of Trevor's Place into more permanent housing. And occasionally he goes on the nightly food runs, although he says it is hard to do now because there are so many other people who want to go.

He also takes time to visit many of the "graduates" from Trevor's Place and Next Door. "It's fun to visit them in their homes. They're proud of what they've done," he says.

Trevor continues to be a spokesperson for the campaign. "Now that I'm nineteen," Trevor says, "I don't draw the publicity that I used to. It's kind of nice not having a camera watch me all the time, but the publicity helped to get the campaign recognized." Trevor is still in the public eye, though. He speaks to thousands of people around the world every year, mainly in churches and schools.

Trevor tells people that anyone can do what he has done. "One person can make a difference," he says. "Just do what you can, and follow your heart." According to a brochure published by Trevor's Campaign, Trevor has found hope and inspiration in the following quotation by Edward Everett Hale:

> I am only one,
> But still I am one.
> I cannot do everything,
> But I can do something;
> And because I cannot do
> everything
> I will not refuse to do the
> something
> That I can do.

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READINGS ON CONTEMPORARY AMERICAN GOVERNMENT

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READINGS ON CONTEMPORARY AMERICAN GOVERNMENT

TEACHER'S GUIDE

Developed by Marcia A. Thompson

Close Up Publishing

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Stephen A. Janger, President

The Close Up Foundation is a nonprofit, nonpartisan educational organization that encourages responsible participation in the democratic process through educational programs and publications in government and citizenship. Since its founding in 1970, Close Up has been committed to developing new and better ways for young people, teachers, and a widening circle of citizens of all ages to gain a practical understanding of how public policy affects their lives and how individual and collective efforts affect public policy.

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TO THE TEACHER

PERSPECTIVES IN TODAY'S MULTICULTURAL CLASSROOM

With American society becoming more ethnically diverse, teachers, educational researchers, and parents have stressed the need for multicultural education. One strategy is to present a wide variety of viewpoints—or perspectives—in the classroom, thus giving students the opportunity to stand in someone else's shoes and experience a viewpoint that may be vastly different from their own. *Perspectives* contains numerous articles on issues confronting contemporary political leaders. The articles have been written by men and women in politics today, from presidents to social commentators to cultural leaders. Furthermore, the writers represent views from African-Americans, Asian-Americans, Hispanics, Native Americans, and women. By considering and evaluating multiple viewpoints on American government, students can become aware of the diversity of opinion in the United States and the value of such diversity in a democratic society. Students also learn to analyze various points of view and their impact on policymaking. *Perspectives* serves as a window through which students can get an original view of American government and society.

ABOUT THIS GUIDE

Today's teachers have too much to teach in too little time. *Perspectives* and the *Perspectives Teacher's Guide* are designed with these limits in mind. The articles in *Perspectives* are grouped in broad units that, with the help of this teacher's guide, can be taught as a unit or as single articles. Articles and activities can be easily adapted to a variety of courses, especially government and history. Teachers are encouraged to adapt the lessons to suit their own circumstances and students' abilities.

Each activity can be presented in one to three classroom periods. The unit opens with a general motivating activity that may be used individually or in conjunction with the other lessons. The motivator is followed by activities related to individual articles. Each activity includes objectives and a detailed procedure. A list of suggested enrichment activities is included at the end of each chapter. Many activities involve student handouts that can be easily duplicated for student use.

Perspectives presents viewpoints from all over the political and social spectrum; therefore, the instructor plays an important role in prompting students to analyze every opinion. While there are opposing views presented in each chapter, the number of articles on each side of an issue are not necessarily the same. The instructor should encourage students to scrutinize the strengths and weaknesses of all of these works and to develop counterpoints (even when they agree). To help, **Student Handout 1—Critiquing Opinions** focuses student attention on critical points of the article. The instructor can use this whenever needed.

STRATEGIES

The *Perspectives Teacher's Guide* incorporates a wide range of activities designed to supplement a course of study. Therefore, none of the lessons follow a traditional lecture format. Rather, all involve group discussions, interactive activities, and student handouts to establish a common base of knowledge. This active learning approach motivates students to become interested in and involved with the issues currently confronting American society and government. By using original resources and participating in a variety of learning activities, students will be able to critically and creatively analyze, synthesize, and evaluate viewpoints, concepts, and issues.

CHAPTER 1:

THE CONSTITUTION

MOTIVATOR

Write on the board the following statements describing the U.S. Constitution. Explain that each statement has been used to describe the Constitution.

- a framework for government
- a living document
- supreme law of the land
- symbol of American ideals
- centerpiece of people's struggle for self-determination
- symbol of freedom and hope for all people
- fountainhead of religious, political, and economic freedom

Divide the class into seven groups of equal size, and give each group an index card on which you have written one of the statements. Be sure each group has at least one copy of the Constitution. Ask students to brainstorm about the possible meanings of their group's statement. Then each group should develop a one- or two-sentence interpretation of its statement. Have a spokesperson from each group write his or her group's statement on the board and share its interpretation with the class. After each group has presented, have students individually decide which statement best describes the Constitution to them. Conduct a vote, and write the three most popular on the board. Discuss why there is such a variety of meanings. Ask students if they think that all of these statements accurately describe the U.S. Constitution. Do they think the top three selected were the most applicable? Why has the Constitution endured as a governing document for over 200 years?

Conclude by emphasizing that the framers deliberately designed the Constitution to be flexible, yet authoritative and representative of American ideals, and that many people believe this is why it has survived so long.

CHAPTER 1 . . . A LIVING CONSTITUTION

by Justice Thurgood Marshall

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss how the meaning of the phrase "We the People" has changed.
2. analyze the flexibility of the Constitution by examining the Bill of Rights and subsequent amendments.
3. evaluate the view that an inherently defective Constitution has evolved to better serve all members of American society.

STUDENT ACTIVITIES

Read aloud or write on the board the Preamble to the U.S. Constitution.

> *We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.*

Working individually, students should spend five minutes writing down what the phrase "We the People" means to them. Then, in a class discussion, call on individual students to share their ideas, and write the main thoughts on the board.

Next, distribute **Student Handout 2—Constitutional Amendments: A Timeline for Change.** Have students read the timeline individually. Then divide them into groups of three or four to complete the "Questions to Consider" on the handout. After they finish, call on students to share their responses. Ask them to refer back to the phrase "We the People." How has that phrase changed over time? Explain that in the 1700s, once Americans threw off the power of kings, the people with a voice in government were white, male landowners. That important step started a slow evolution toward the notion that power and a voice would belong to all members of society. What generalizations can students make about the Constitution as the "supreme law of the land"?

Next, have students read "A Living Constitution" by Thurgood Marshall. Afterward, discuss Marshall's views. How does Marshall characterize the Constitution? How does he explain the omission of African-Americans from the phrase "We the People" in the Constitution? Would students change their definitions of "We the People" after reading Marshall's article?

Finally, explain that the Constitution was created to be a framework for government and a symbol of the ideals of the American people. Its continuing evolution reflects changing American priorities. Many marvel that the Constitution has endured for over 200 years. Why do students think it has endured? What would they change about the Constitution?

CHAPTER 1 . . . THE NEW FEDERALISM: TWO VIEWS

by Linda Chavez and Mayor Raymond L. Flynn

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the tenets of federalism.
2. critique and evaluate opposing opinions on federalism.
3. determine how the Constitution divides powers between the federal and state governments.

STUDENT ACTIVITIES

Explain to students that the framers of the Constitution generally believed that governmental power should be divided among the federal, state, and local governments. This division, called federalism, was designed to prevent tyranny that might arise from having all power rest in one central government. Some powers have been given exclusively to the national government, while other powers have been reserved for state and local governments, principally by the Tenth Amendment. Still other powers are shared by national, state, and local governments.

To begin the activity, provide students with copies of the U.S. Constitution and your state constitution and distribute **Student Handout 3—Federalism in Action.** Organize students into groups of three or four, and have them search the two constitutions to determine if the powers on the handout are national, state, local, or shared powers.

ANSWERS TO STUDENT HANDOUT 3—FEDERALISM IN ACTION	NATIONAL	STATE	LOCAL
1. Determine marriage and divorce laws		✓	
2. Administer welfare programs	✓	✓	✓
3. Approve constitutional amendments		✓	
4. Raise and support armies	✓		
5. Set property taxes			✓
6. Regulate interstate commerce	✓		
7. Regulate nuclear power plants	✓	✓	✓
8. Coin money	✓		
9. License incorporation of businesses		✓	
10. Establish zoning laws		✓	✓
11. Set air pollution standards	✓	✓	✓
12. Lay tariffs on imports	✓		
13. Admit new states to the union	✓		
14. Establish courts	✓	✓	✓
15. License lawyers, doctors, barbers, plumbers, and other occupations		✓	✓
16. Determine the need for seatbelt laws	✓	✓	✓

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Are there any powers that students had trouble finding? Why do they think some powers were not mentioned specifically? Where could they go to find answers to their questions? What conclusions can students draw about the division of power in the U.S. government?

Finally, explain that during the 1980s, President Ronald Reagan made efforts to give more power back to the states. Divide the class in half—have one half read the article by Linda Chavez, and the other half read Raymond Flynn's article. Each half should then be divided into groups of three or four, in which students will evaluate their articles by responding to the following:

- According to your author, what is the new federalism?
- What effect is the new federalism having?
- Summarize three of your author's main points about federalism.
- List three criticisms of your author's analysis.

In a class discussion, have group members share their answers. Were students surprised at the differences between the articles? What accounts for the differences? How would students evaluate the new federalism?

CHAPTER 1... SEPARATE BRANCHES, SHARED POWERS

by Lloyd N. Cutler

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the natural tension among the branches of government.
2. discuss the view that divided government has created deadlock, and evaluate proposals to create a more unified government.
3. analyze recent examples of the relationship among the three branches of government and evaluate interaction of the branches.

STUDENT ACTIVITIES

Note: *Before beginning this activity, you will need to bring to class a three-pronged rope that you have fashioned by tying the end of one short piece of rope to the middle of a second short piece. Make sure the knot will not slip or come untied—although no one is actually going to pull hard at any time during this activity.*

Briefly review the concepts of separation of powers and checks and balances with the class. Then, select three students to come forward to represent the three branches of government—executive, legislative, and judicial. When you choose the students, make sure one of them is clearly larger and stronger than the other two. Have each take one of the ends of the rope and pull it taut. Then, explain to the class that the three "branches" are going to engage in a power struggle to see which, if any, can overcome the other two. Ask the class who they think will win when the hard pulling starts. After the class has speculated on the likely winner, your three representatives can relax and participate in the upcoming discussion.

What would happen to the government if one branch obtained all the power—which likely would have happened if these three classmates had actually pulled hard? How can that be avoided in a power struggle? (Students should suggest coalition building, checks and balances, and cooperation.) If the branches cannot reach any agreement, who loses?

Explain that the framers of the Constitution decided that separating powers and establishing a system of checks and balances would make it impossible for the powers of government to become concentrated in one set of hands. It also makes each branch dependent on the others. One outcome of the separation of powers is the possibility of a divided representative government (president from one party; majority in Congress from the other). Some say a divided government stifles progress and creates deadlock.

Have students read Lloyd Cutler's article, "Separate Branches, Shared Powers," for homework. They should also answer the following questions:

- According to Cutler, how has the nature of political parties changed, and why has that created deadlocked government?
- What three changes in election laws does Cutler recommend? Which one do you think is the most practical? Why?
- Do you think the framers of the Constitution would support Cutler's ideas? Why or why not?

In the next class meeting, call on students to share and discuss their answers.

Distribute and have students individually read **Student Handout 4—Checks and Balances.** Divide students into groups of three. Each group member should select one situation. Then, group together all students who selected situation 1, and do the same with students who selected situation 2 and situation 3. They should discuss the questions on the handout as applied to their situation. Next, have students return to their original groups, and share their answers for all three situations. What generalizations can students make about the separation of powers?

CHAPTER 1 . . . CIVIL LIBERTIES AND THE CONSTITUTION

by Arthur Spitzer

OBJECTIVES

At the end of this activity, students will be able to:

1. evaluate the importance of the freedoms guaranteed by the Bill of Rights.
2. establish criteria for describing which rights are important.
3. compromise to come to a group consensus.

STUDENT ACTIVITIES

Distribute **Student Handout 5—Ranking Rights and Freedoms** and give students time to complete it. You may want to have them work on the handout individually in class or as a homework project.

Then break students into groups of three to five and give each group another clean copy of the handout. Instruct them to try to come to a group consensus on ranking the list. Ask them to jot down the main reasons that they ranked rights as they did. They should put a star by the three rights on which they differed the most, and write in the margins how they were able to compromise to come up with the final decision.

Have one representative from each group go to the board and post his or her group's ranking. When students have finished, lead a discussion based on their responses. Which items were most commonly chosen? Which items caused the greatest diversity of opinion? Which items were left off the list by nearly everyone? Are there surprises? Discuss why the class agreed on some items and not others.

Continue the discussion by asking individual students to read their answers to the questions at the end of the handout. Encourage students with differing opinions to explain their rationales.

Finally, have students share the ways they were able to compromise while making their group decision. Discuss the consequences of depriving citizens of the rights and freedoms that were frequently left off the lists. Ask students to speculate on how their lives might be different if they were deprived of certain rights. Compare their reactions to the article by Arthur Spitzer. Emphasize that even though rights and freedoms can be ranked by importance to individuals as they have done in this exercise, all rights and freedoms are important to all Americans. Discuss Arthur Spitzer's assertion that, "The only way to protect the rights of any of us is to protect the rights of all of us."

CHAPTER 1 . . .

PERSPECTIVES ON THE CONSTITUTION

by Ernest Green, LaDonna Harris, Senator Orrin G. Hatch, Senator Daniel K. Inouye, Gregory "Joey" Johnson, and Norma McCorvey

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OBJECTIVES

At the end of this activity, students will be able to:

1. discuss individual perspectives on the Constitution.
2. compare and contrast the various viewpoints on the Constitution.
3. formulate and express their own opinions about the Constitution.

STUDENT ACTIVITIES

For millions of Americans, the true meaning of the Constitution goes beyond the actual text. Many people have passionate and diverse views about what the Constitution represents. Tell students they are going to read six personal perspectives on the meaning of the Constitution.

Distribute **Student Handout 6—Views on the Constitution.** Have each student complete the handout individually for the authors in "Perspectives on the Constitution." Then, have students work in groups of three or four to reach a consensus on their answers.

In a class discussion, explore student responses to each of the authors. Suggested discussion questions for each author are included below. Then, have students examine and compare the views with which they agreed and disagreed. Are there any patterns? Have students write their own views on the handout. What has influenced students' views? Do they think their views will change as they get older? Do they find any correlation between people's backgrounds and their views?

Finally, have students articulate their thoughts by writing a one- or two-page essay titled "What the Constitution Means to Me." They should model their essay after the *Perspectives* articles they have read. Their accounts should include a discussion of the personal meaning the Constitution has in their lives. You might want to compile these articles in a class book with student illustrations.

POSSIBLE DISCUSSION QUESTIONS:

Ernest Green

—Why does Ernest Green value the right to equal status under the law?

—What does the Constitution mean to Ernest Green?

—How did the Constitution change his life?

—Do you think he did the right thing by attending Little Rock Central? Would you have done the same?

LaDonna Harris

—How does the Constitution protect Indian tribes?

—Have Native Americans always enjoyed constitutional protection?

—Do you agree with the notion of dual citizenship and dual entitlement?

—Why does LaDonna Harris think so many Americans, including Ronald Reagan, misunderstand Native Americans' unique status as dual citizens? Do you agree or disagree?

Senator Orrin G. Hatch

—What experience has influenced Orrin Hatch's view of the Constitution?

—Do you agree that the foundation of the Constitution does not change, as Senator Hatch suggests?

—What would someone who believes in the notion of a living, changing Constitution say about Hatch's view?

Senator Daniel K. Inouye

—Why does Senator Inouye believe that the constitutional protection of rights for all citizens is important?

—What was his personal experience during World War II as the son of Japanese immigrants?

—Is national security ever a justification for denying rights to American citizens? Why or why not?

Gregory "Joey" Johnson

—What does the Constitution stand for in Joey Johnson's eyes?

—To whom is Johnson referring when he says "the powers-that-be"?

—What points does Johnson use to support his view?

—Do you agree or disagree that communism would be more liberating than a Constitution administered by the "powers-that-be"? Why or why not?

Norma McCorvey

—Why does Norma McCorvey value the right to privacy?

—McCorvey says, "The Supreme Court recognized in 1973 that individuals, weighing their individual circumstances, make better decisions than the state." Do you agree with this view as it applies to abortion? Why or why not?

—What would opposing groups say about this view, and about McCorvey's experience with the adoption procedure?

—Consider that the right to privacy can apply to other issues besides abortion. What are some of the arguments against the Supreme Court's interpretation of privacy?

CASE STUDY

THE CONSTITUTION

PROHIBITION AND ITS REPEAL

by Charles R. Sass

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the process of ratifying the Constitution.
2. evaluate the effectiveness of amending the Constitution.
3. list and discuss reasons why amendments are proposed and added to the Constitution.

STUDENT ACTIVITIES

Distribute **Student Handout 7—Changing the Constitution.** After students complete the handout, lead a discussion based on their responses. Ask them what kinds of criteria a proposed amendment should meet before becoming the supreme law of the land. Is the process too simple? Too complicated?

Next, break students into groups of four or five and distribute **Student Handout 8—New Amendments to the Constitution?** Students should consider the merits of these recently proposed or suggested amendments and then rank them in order of the likelihood of their ever being added to the Constitution. Have them explain their reasoning. Remind students to consider the success and failures of Prohibition. Groups should report back to the class. Discuss and compare the responses, and encourage students to elaborate on and defend differing opinions. Why do they think the amendments on the handout were proposed? Would the framers of the Constitution be pleased with its status today?

Explain that the framers wanted the process for amending the Constitution to be difficult, but sometimes amendments such as Prohibition do get passed even though they do not reflect the collective will of the people.

ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The Constitution." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. Have students find evidence that the Constitution is still working by bringing in newspapers, magazines, copies of government documents, and stories taken from television programs to illustrate the point. They should share them with the class. Create a bulletin board or display titled "The Constitution: A Living Document," and have students illustrate it with their articles, artwork, and props. This can be an ongoing display.

2. To better appreciate the political climate in 1789, have students conduct research into social and political concerns in eighteenth-century America. Assign groups of students a segment of society, such as women, farmers, slaves, white landowners, and so forth. Then have the participants representing the various groups hold a mock town meeting in which they discuss the need for a replacement to the Articles of Confederation and what that document should include.

3. For another view of the separate branches of government, have students read "Congress and the President" by George Mitchell in Chapter 3. Students should compare the views of Mitchell and Lloyd Cutler. Both refer to the parliamentary system of government. Have students compare and contrast the U.S. government with other forms of government, such as the parliamentary system. They will need to do some research. Students could illustrate their findings through a role-playing activity or debate.

4. Have students conduct research into election laws. They should find out limits on spending, the advantages of being the incumbent, and ways for candidates to get public funds. Students should prepare brief oral reports summarizing their findings and addressing Lloyd Cutler's view that the election laws need to be revised.

5. Have students search magazines and newspapers for examples of where the branches of government interact and conflict. Keep a class folder or organize a bulletin board. Students should consider how the personalities of the people involved and current events affected the outcome. What does the influence of personality and current events say about the Constitution?

6. Students should interview five individuals about their views on the Constitution. Encourage them to seek a variety of individuals, with several generations, occupations, and backgrounds represented. If possible, at least one person should be involved with political or government work. In class, have students compile their results and discuss any patterns that emerge. How do their survey results compare to views of the authors in "The Constitution" chapter?

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7. Some Americans say the Constitution becomes even more important in a diverse society. Have students research demographic information on U.S. society. Then, have them create a wall chart or bulletin board displaying different data such as religion, generational distributions, ethnic diversity, earnings, etc. Students can then write essays, prepare speeches, or give short role plays discussing the role of the Constitution in a society with such a rich cross section of people.

8. Organize debates on issues raised by the Bill of Rights. Possible topics include:

- Resolved: Public school students should be allowed to begin each school day with a moment of silence.
- Resolved: School officials should be required to have a search warrant or probable cause to conduct in-school searches.

9. Have students conduct research on the protection of rights around the world. Assign different countries (such as China, India, Saudi Arabia, or South Africa) or organizations such as Amnesty International and the United Nations. Have them report to the class on the differences between rights in the United States and rights in the country they researched or tell about how the organization they studied tries to protect rights.

CHAPTER 2: THE CONGRESS

MOTIVATOR

Conduct a brainstorming session in which students respond to the following question: What factors does a member of Congress consider in making decisions on legislation? Write student responses on the board. The list should include: constituent needs, interest group lobbying, political party loyalties, media pressures, committee responsibilities, peer pressure, president's preferences, and personal agenda. Make sure that students understand all the items on the list.

Next, distribute **Student Handout 9—U.S. Lawmakers Juggle a Variety of Concerns.** Ask students to select the eight factors from the list on the board that they think have the greatest influence on a legislator's decisions. They should write one factor in each ball on the handout.

Finally, ask students to analyze the cartoon they have just completed. What is the significance of the lawmaker standing on a box of campaign promises and reelection concerns? What image of a U.S. lawmaker does this cartoon convey? Do students think this image is accurate?

CHAPTER 2 . . . THE NATION'S CHIEF LEGISLATOR

by Speaker Thomas S. Foley

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the role and function of the speaker of the House.
2. discuss the influence of the speaker on policy and process in the House.
3. describe and compare several former speakers.

STUDENT ACTIVITIES

Tell students they are going to take a one-question quiz to test their knowledge of the Constitution and Congress. They should write responses to the following question on their own paper:

- Give the title of the person who would become the next president if the president and the vice president died today in a plane crash.

You may give them the hint that one person called the position "the proudest title in any free legislature." How many students knew that the correct answer is the speaker of the House? Why is the speaker third in line to succeed the president? To answer this, have students read the article by Speaker of the House Thomas Foley.

Then, have students brainstorm a list of the functions of the speaker. Considering the list, why is the speaker of the House a powerful position? What type of person would make a good speaker? Have students write a short character sketch of what makes a good speaker. Then have them research the careers of several speakers, such as Henry Clay, Joseph "Uncle Joe" Cannon, Sam Rayburn, Thomas "Tip" O'Neill, and Thomas Foley. Students should write a one-page essay describing their findings and share them with the class. Do these speakers match the students' character sketches? Why or why not? Does the character of the speaker contribute to his or her power and influence?

Finally, discuss with students why the speaker of the House is more powerful than the Senate majority leader. Compare and contrast the House of Representatives and the Senate as well as the roles of their leaders. Ask students to elaborate on why the speaker would be third to succeed the president. Do they agree with this choice? If not, who do they think should be third in line?

CHAPTER 2 . . . PARTY POLITICS AND CONGRESS

by Representative Robert H. Michel

OBJECTIVES

At the end of this activity, students will be able to:

1. compare and contrast proposals by the two major political parties.
2. compromise to make decisions on policy issues.
3. speculate on how party politics affect congressional policymaking.

STUDENT ACTIVITIES

Have students read Representative Robert Michel's article, "The Role of Party Politics in Congress." Discuss reactions to the article. Does Michel think political parties are important? Why? Do students think that political parties help or hinder congressional decisionmaking?

Then, assign students to research various proposals before the current session of Congress. They should concentrate on major issues such as the federal budget deficit, health care, defense spending, crime, and so forth. They should find out both the Democratic and Republican proposals for each issue.

Divide students into groups of three or four, and ask them to compare and contrast each party's proposals on specific issues. Do these issues generate controversy between parties and among legislators? If any votes have been taken, were they along party lines, or did the representatives stray from their party's position?

Finally, have each group reach a consensus as to which proposal best solves each issue. Discuss the groups' decisions. Was it easy for students in each group to agree? If not, what hindered their decisionmaking process? Do they think that members of Congress might experience similar problems in reaching a decision? Are there some issues where party lines may not matter as much? What issues might divide Congress along party lines? What issues may cause the most deviation from party lines? Again, ask students if the political party structure helps or hinders problem solving in Congress. Did any opinions change? If so, in what way?

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CHAPTER 2 . . . A CONGRESSWOMAN AND HER CONSTITUENTS

by Representative Constance A. Morella

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the concept of representative government.
2. list information about their representative in Congress.
3. evaluate the work of their congressional representative.

STUDENT ACTIVITIES

To help students deepen their understanding of the concept of representation, distribute **Student Handout 10—Views on Representation.** Then, divide the class into groups of three or four, and ask students to discuss within their groups what they think each quote on the handout means in terms of representative democracy. Have each group write a half-page answer for the following: "What is representative democracy all about?" In a class discussion, students should share their group's interpretations of the quotes and thoughts on representative democracy. Do the actual workings of the government match student answers? Why or why not?

Finally, on a large bulletin board create a classroom resource center titled "Know Your Representative." Assign students to gather information about their U.S. representative by writing the representative's office, reading news sources, and interviewing constituents. The resource center should include background information, voting record, personal schedule, and position on major issues. Also ask students to write a description of the congressional district in which they live in the way Representative Constance Morella does in her article. Post these on the resource center board as well.

Students should read the materials on the resource center bulletin board and familiarize themselves with their representative. This display can be ongoing and evergrowing. Invite other classes to read the information on the board.

CHAPTER 2 . . . THE ROLE OF CONGRESSIONAL STAFF

by Robert L. Mallett

OBJECTIVES

At the end of this activity, students will be able to:

1. describe the functions of congressional aides.
2. evaluate the influence of congressional aides on public policymaking.
3. discuss the impact of the role of congressional staff on representative government.

STUDENT ACTIVITIES

As a homework assignment, have several students find out how many people work for their senators and representative in Congress as well as the total number of people working for Congress as a whole. Students should share their findings with the class. Do the numbers seem too high or too low? Why? Are students surprised by the numbers? Ask them to brainstorm what congressional staffers do. Write ideas on the board.

Next, have students read "The Role of Congressional Staff" by Robert L. Mallett. As they read, they should jot down any functions of congressional staff that were left off the list on the board. Which function gives congressional staff the greatest opportunity for influence on public policy? Point out that congressional staffers are not elected. How would students evaluate Mallett's statement that "Congressional staff have opportunities to influence public policy, to assist in the formulation of goals for our society, and to help members of Congress for whom they work craft solutions to not only national problems, but global concerns as well"?

While congressional aides receive credit for keeping their members of Congress up to date and organized, they also receive criticism for doing much of the legislative work, even though they are not representatives of the people. How much influence do congressional aides have on their senators and representative? Do staffers have too much influence, not enough, or the right amount? Does the role of congressional staff change the concept of representative government? Would students like to work as congressional staffers?

CHAPTER 2 . . . CONGRESSIONAL TERM LIMITS: TWO VIEWS

by George F. Will and Norman Ornstein

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss the effectiveness of Congress based on recent actions.
2. debate congressional term limits.
3. evaluate the arguments for and against and form an opinion on congressional term limits.

STUDENT ACTIVITIES

In a brainstorming session, have students list recent actions of Congress. Responses should include specific hearings, bills, proposals, and controversies. Discuss their perceptions of Congress. How do students think the public feels about Congress? Would they change anything about Congress? If so, what? Ask students what they know about their own representatives. Do they think they should know more? Have students individually rate on a scale of **1** to **10** the overall effectiveness of Congress as a body of government, with **1** meaning "worthless" and **10** meaning "perfect." Then call on students to share their views. Tabulate a class average.

Explain that many Americans believe that Congress is not very responsive to constituents' needs. At the same time, a majority of incumbents get reelected year after year. Some people think that members of Congress spend more time trying to get reelected than trying to solve the nation's problems. But the voters rarely vote their senators and representatives out, in part because incumbents have access to mailing privileges, greater fundraising resources, and greater name recognition. Many Americans, although disliking Congress as a whole, think their own senator or representative does a good job. Have students brainstorm explanations for such inconsistencies and some possible remedies. Then explain that one popular proposed reform is passing a constitutional amendment limiting the number of terms a member of Congress can serve.

Tell students that they will debate this issue in class, and will randomly be assigned a side. While reading "Congressional Term Limits: Two Views," they should jot down four key arguments on each side.

Next, divide the class into four groups of equal size, two to argue George Will's point of view, and two to argue Norman Ornstein's point of view. Hold two debates. Students should use the key points from the readings to formulate opening statements, arguments, and rebuttals. After the debate, reconvene the class and have students vote on which side they thought had the stronger argument.

Discuss the results. Have students' perceptions about Congress changed since the beginning of this activity? If so, in what way? If students favor an amendment or other reforms, how will they make their voices heard?

CASE STUDY

THE CONGRESS

CONGRESS AND THE CRIME BILL

by Tim Walker

OBJECTIVES

At the end of this activity, students will be able to:

1. explain key issues related to crime, and measure and compile their community's opinions on those issues.
2. describe how a bill becomes a law.
3. analyze the complexity of passing a bill on which Democrats, Republicans, and the president agree.

STUDENT ACTIVITIES

According to the case study, more than half the population of the United States believe that there is more violent crime where they live today than there was three years ago. In 1991, most major American cities broke their annual homicide records—2,000 murders were committed in New York City alone. Do students think that crime is a major issue in their community? Ask them to brainstorm attitudes about crime and issues related to controlling crime. Write their ideas on the board.

Then, help the class develop a survey using the ideas on the board. Questions might include: Do you think crime is a serious problem in this community? Do you favor greater restrictions on handguns? Do you favor the death penalty? Do we need more police protection? Do we need more prisoners? Place students in groups of four, and have each group survey other students in their school and people in their community about their attitudes toward crime.

After students have conducted their surveys, have the class compile the results. Based on the attitudes of their school and community, what recommendations would students make to Congress regarding crime?

Next assign "Congress and the Crime Bill" to the class to read. Discuss reactions to the case study and the failure of the bill. Did Congress respond to the requests of the American people? Did Congress respond to the concerns voiced by local community members in the students' survey? What were some of the factors that led to the dilution of the first bill and the failure of the second bill? Many people criticize Congress for its inability to compromise and pass effective legislation, while others believe that such inaction is a tolerable price to pay to maintain a representative Congress. What do students think? Does the congressional system need an overhaul? If so, in what way?

CHAPTER 2 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The Congress." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. After students become familiar with and knowledgeable about their senators and representative in Congress, have them share their knowledge with other classes—particularly if an election is coming. Students should plan a presentation to encourage others to become interested and involved in issues affecting their district and state.

2. Have students develop a profile of a generic representative. What characteristics are desirable? What qualifications should the representative have? What duties will he or she perform? Then, have students write short essays discussing whether the job of being a U.S. representative appeals to them and why.

3. After students read Robert Michel's article, "Party Politics and Congress," and the case study, "Congress and the Crime Bill," have them evaluate the role of party politics in the crime bill. Do students agree with Michel that "the two-party system, for all its faults, has been good for Congress, and good for America"? Why or why not?

4. Have students compare Robert Michel's views with those of Ron Brown and Rich Bond in "Political Parties and Participation: Two Views" in Chapter 8. Students should then write an essay using the three articles in which they either support or defend George Washington's view that parties would become the means by which "cunning, ambitious, and unprincipled men will be enabled to subvert the Power of the People. . . . "

5. Invite several congressional aides to class to participate in a roundtable discussion, or have your students interview them by telephone. Students should develop questions about working as a congressional aide, congressional staff's influence on public policy, and whether there are too few or too many staff members on Capitol Hill. Then, have students write a one-page essay evaluating whether congressional aides have too much or too little influence in Congress.

6. Have students research and list congressional "perks" (short for perquisites, free or special services members receive as a benefit, such as reserved parking or free mailings) that members of Congress enjoy in office and after they leave office. Are students surprised by the list? Do they think there are too few or too many perks? What privileges would they expect if they were to run for national office?

7. Invite local members of Congress or their staff members to speak to the class regarding term limits. Students should prepare questions based on the articles by George Will and Norman Ornstein. When the guest speaker leaves, have students carefully evaluate the presentation. Did the speaker agree more with Will or with Ornstein?

8. Have students write letters to the editor or to their senators and representative supporting or opposing term limits for members of Congress. Students should include specific examples to support their point of view. Have them refer to the appropriate articles to see how Will and Ornstein supported their assertions.

9. Many Americans believe that Congress is heavily influenced by special interest groups that give big donations. Have students research any large special interest group. Components of this research can be divided. For example, one group can be responsible for contacting the interest group, another can contact their representative's office, one can contact the Federal Elections Statistics Bureau for financing information, and one can conduct library research. Students should then share information with the whole class. Finally, have students generalize about the impact of interest groups on congressional decisionmaking.

CHAPTER 3: THE PRESIDENCY

MOTIVATOR

Copy the presidential oath of office on the board.

> *I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States.*

In a brainstorming session, have students tell both the positive and negative aspects of being president. The list might include such items as being the leader of a democratic nation, running for reelection, meeting with foreign leaders, proposing legislation to Congress, constantly being in the public spotlight, having no privacy, being the victim of assassination attempts, and so forth. Generate as many ideas as possible in ten minutes and write them on the board. Then, go back and highlight every item that deals with presidential power. Ask them to decide whether each of these items is positive, negative, or both. Help students to realize that presidential power comes in many forms and that power can be a double-edged sword in that exercising it often exacts a price. For example, presidents have the opportunity to give televised addresses. However, they are often criticized by the media, which abridges some of that power. Finally, ask students if they feel that the presidential oath of office is an adequate promise for the most important leader in the nation and the world to make.

CHAPTER 3 . . . AN INTERVIEW WITH PRESIDENT GEORGE BUSH

OBJECTIVES

At the end of this activity, students will be able to:

1. establish a list of public and personal expectations of the president.
2. rate the performance of the president in a number of areas.
3. evaluate the effectiveness of the president in meeting the expectations of the public.

STUDENT ACTIVITIES

In a class discussion, explore students' expectations of the president. What do they expect of their president? Jot down responses on the board. Then, distribute **Student Handout 11—Presidential Scorecard.** You may want to review recent presidential actions with the class so that they can make informed decisions. After students have completed the handout, have them put it aside and continue the discussion by asking if Americans expect too much of their presidents. Is the job too big for one person?

Next, read aloud the questions from "An Interview with President George Bush" and have students work in groups of three or four to predict the president's responses to those questions. If their knowledge of recent current events is limited, you may want to give them time to research. You and/or they could bring some news sources to class for students to share.

Students should then read "An Interview with President George Bush." Have them compare the president's actual answers with their predictions. Did the president answer the questions asked of him? Did the president answer as students predicted? Were students surprised by his answers? Then, give them a clean copy of **Student Handout 11—Presidential Scorecard.** After they have completed it, ask them to compare their answers to their first responses. Did anything change? If so, what?

Finally, tell students to imagine that they are writing an American history textbook ten years from now and are going to write the section on today's president. How do they think history will judge the current president? Did he meet the public's expectations? Did he keep his campaign promises? What kind of moral tone did he set for the nation? Select a few of these writings to share with the class.

CHAPTER 3 . . . CONGRESS AND THE PRESIDENT

by Senator George J. Mitchell

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss how the division of constitutional powers creates tension between the legislative and executive branches.
2. analyze domestic and foreign policy issues and predict legislative action on those issues.
3. evaluate the effects of differing views on policy issues between Congress and the president.

STUDENT ACTIVITIES

Have students read the article "Congress and the President" by Senator George Mitchell. In class, discuss why some pieces of legislation receive attention while others do not. How do the differences in constitutional powers create tension between the legislative and executive branches of government? How do differences in political party affiliation affect relations between the two branches?

To examine further how political parties affect the relationship between Congress and the president, distribute **Student Handout 12—Congress and the President.** Select at least one domestic and one foreign policy issue that have been in the headlines and about which you feel knowledgeable. Briefly present these issues, and call on students to discuss the positions of the Democratic and Republican parties. Then, ask students to predict the results of the interactions of Congress and the president under the various party affiliations by filling in the chart. Discuss student answers and try to come to a class consensus on the chart. You may have to reach a decision by asking for a show of hands on various predictions.

Repeat the exercise several times using different issues; then compare and discuss answers. What generalizations can students draw about how belonging to the same or different parties affects relations between the president and Congress? Does the relationship change from domestic to foreign policy issues? If so, how? How does the nature of the issue (special interest, presidential initiative, emergency action, etc.) affect the likelihood of a bill's being passed? Are there any issues in recent history that are exceptions to the patterns students have discovered so far? If so, what are they? Do students think it is true that if there is no consensus among the public on an issue, it is unlikely that there will be one in Congress?

Finally, review some of Senator Mitchell's arguments. Mitchell believes that institutional and party conflicts can cause the government to be inefficient, but the basic purpose of representative democracy is not efficiency, but individual liberty. Mitchell says, "A government efficient enough to clear away all disagreement and dissent is a government powerful enough to silence anyone who questions its goals." Do students agree with this view? Why or why not? Is it necessary to have inefficiency to also have personal liberty?

CHAPTER 3 . . . THE BEST BEAT IN THE WORLD

by Helen Thomas

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss Helen Thomas's view of the presidency.
2. evaluate the media's perspective on the presidency.
3. compare the media's perspective on the president with that of someone who has worked for a president.

STUDENT ACTIVITIES

Read the following statements, excerpted from Helen Thomas's article, to the class. Students should jot down whether they agree or disagree with each statement.

1. *"There is no such thing as an instant president. It is on-the-job training, personified by blood, sweat, and tears."*

2. *"Presidents . . . get the glory and the blame in the highest office in the land."*

3. *"In the* [presidential] *oath, he* [the president] *promises to faithfully uphold the laws of the land. Too often, that pledge is forgotten when a president wants to make end runs around the law."*

4. *"It is easy to do the right thing if you know what the right thing is."*

5. *"It is* [the president's] *job to serve the people and to put the people first."*

6. *"Presidents must lead, but they must also follow. . . ."*

7. *"Democracy is the worst form of government except for all the others that have been invented."* (Winston Churchill, as quoted in Helen Thomas's article)

Tally the class results. Where do students generally stand on these statements? Call on individuals to explain their choices. Does the job of president sound appealing?

Have students read Helen Thomas's article, "The Best Beat in the World." Then, in groups of three or four, have them use the article to make a list of ways in which the media interact with the president. The list should include press conferences, visiting the president's hometown, jogging with the president, traveling with the president, and so forth.

Next, have students share their lists in a class discussion. What kind of insight into the presidency is Thomas able to give? Do members of the media know the president better because they go skiing with him? Would the president's friendliness or unfriendliness affect how reporters write their stories? How much of a president's success depends upon his or her relationship with the media? Why?

Ask students to also read Jody Powell's article, "The Media and Government," and discuss the differences in viewpoints between a White House reporter and a president's press secretary. How would students describe the relationship between a reporter and a press secretary?

Finally, have the students rate, on a scale from one to ten, the current president's success in dealing with the media. They should consider whether the president is likeable, accessible, and honest. You may want to bring in newspapers and tapes of televised news conferences to help students make their evaluations.

CHAPTER 3 . . . WHY RUN FOR PRESIDENT?

by Representative Patricia Schroeder

OBJECTIVES

At the end of this activity, students will be able to:

1. list factors involved in running for president.
2. explain why they might want to be president.
3. evaluate their reasons for electing a particular mock presidential candidate.

STUDENT ACTIVITIES

After reading "Why Run for President?" by Representative Patricia Schroeder, have students consider the question: Would you like to be president? Why or why not?

Students should write down their immediate answers. Collect and save them for later. Then, conduct a brainstorming session listing on the board presidential responsibilities. Items might include proposing a budget, meeting with leaders from other countries, addressing the nation, and so forth. Then, add to the list the personality traits, experience, and characteristics a president should have. Have students assess their skills for the job, such as their ability to speak in public, handle pressure, and remain objective during a crisis. Would students like to hold such a job?

Then, ask students who think they might want to be president to prepare a three- to five-minute talk on their goals and objectives for the United States. Have them deliver their speeches to the class. When all speeches have been made, take a secret ballot on who the class thinks would make the best president. On the ballot, students must tell why they chose the person they did.

Conclude by sharing the students' top choice and read some reasons for the choice. On what basis did students decide to vote for a particular candidate? Is there a consensus among class members? Why? In Schroeder's article, she suggests that, in 1987, Americans may not have been ready for a female president. Do students agree? Do students foresee any change in the future? Was gender a factor in their decisions to run or for whom to vote? Is popularity a factor? Should it be? Have students reconsider their original answers to whether they would like to run for president. Would any students change their minds? How and why?

This activity would work especially well if several classes were combined, speeches given in a large group session, and voting done outside of class time to simulate more accurately the actual voting process.

If no students think they would want to be president, discuss their reasons. Do students agree on the reasons? Discuss current or recent candidates for president. Why did they run? Do students think people who may have considered running but decided not to had reasons similar to their own? Do they think that the current or recent candidates for president are the best? Why or why not?

CHAPTER 3 . . . THE PERSONAL PRESIDENCY

by William Schneider

OBJECTIVES

At the end of this activity, students will be able to:

1. compare and contrast the heads of state in various types of government.
2. discuss the impact of public opinion on the presidency.
3. describe Schneider's arguments about the personal presidency.

STUDENT ACTIVITIES

For homework, ask students to research the roles of the heads of state in a monarchy (king or queen), parliamentary democracy (prime minister), representative democracy (president), and dictatorship (dictator or military leader). Students should rank them from one to four, with one being most powerful and four being least powerful. They should jot down brief explanations for their rankings. To prepare for the next part of the activity, ask students to bring recent news magazines and newspapers as research material. Also, ask several students to go to the school or city library to find recent public opinion poll data on the president's popularity.

Then, in class, discuss the students' findings. How would students define leadership? Which head of state did they think exercised the greatest leadership? Why? Do students agree on their rankings? How do they differ?

Next, divide the class into groups of three or four, and have each analyze news sources for articles and cartoons about the president's personal life, such as vacation, family, pets, health, meals, and past. Do these stories tell the reader anything significant about the president's leadership capabilities? Are they important? Why or why not? Then, have the students who found poll data share it with the class. What is the president's approval rating? What is significant about it? Should the president change his behavior based upon the poll data? Why or why not?

Students should then read William Schneider's article, "The Personal Presidency." Does Schneider take a different view of the presidency than the class did in the previous discussions? If so, how? What are Schneider's main arguments? Do students agree with Schneider?

Finally, have students write a one-page opinion paper in which they support or reject Schneider's view of the presidency. Select a few of the representative essays to share with the class.

CASE STUDY

THE PRESIDENCY

THE PRESIDENT AND THE WAR POWERS RESOLUTION

by Tim Walker

OBJECTIVES

At the end of this activity, students will be able to:

1. evaluate some of the reasons for conflict between the president and Congress.
2. discuss the argument that the president has gained too much power.
3. explain how the president and Congress resolved their differences over the War Powers Resolution.

STUDENT ACTIVITIES

Have students read the following parts of the Constitution: Article I, Section 8, which discusses the powers of Congress, and Article II, Sections 2, 3, and 4, which outline the powers and duties of the president. Distribute **Student Handout 13—Dividing the Powers** and have them work individually or in pairs to complete the chart.

Discuss the handout and ask students to speculate where tensions may arise as Congress and the president execute their powers. Next, divide the class into groups of two or three, and have them review the case study. Ask them to interpret each photo and cartoon. When finished, each group should agree on three points or themes in the case study, based on the graphic items. Have them evaluate the relationship between the president and Congress. Students should write down their thoughts and save them for the next class period.

Assign students to read the case study for homework. The next class period, ask students to re-evaluate their thoughts on the relationship between the president and Congress. Lead a discussion on whether the president has gained too much power. Remind students of the checks and balances system, and that the judiciary also plays a role in limiting the concentration of power.

Do they think the president should be allowed to send thousands of troops into combat and commit the country to war without the approval of Congress? Why or why not? What other kinds of power does the president exercise? Is there a problem with one person exercising most of the power? What did the framers think about executive power?

CHAPTER 3 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The Presidency." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. Have students use **Student Handout 11—Presidential Scorecard** to evaluate twentieth-century presidents. They should develop a system to rank the presidents, and create a wall chart displaying the rankings. Then, have students evaluate their work. Was it easier to rate some presidents than others? Why? How do past presidents compare with the ranking of the current president? Have students interview parents, neighbors, and relatives about presidents they remember. Did their rankings and opinions agree with the students'? How would students explain differences?

2. Though the president takes responsibility and blame for how he conducts the executive office, he is surrounded by staff members who conduct research, give guidance, and implement his policies. Have students research the roles of presidential supporters and advisers, such as White House staff, cabinet members, and the president's friends and family. Students should share their findings with the class. How much of a role do presidential supporters and advisers play in the executive branch of government?

3. Have students study recent legislative proposals by the current president. In a class discussion, focus on the results of the president's initiatives. Did Congress rewrite the president's proposals? Did Congress pass related legislation? Was the president satisfied with the congressional action? How many bills has the president vetoed this term? Were the disagreements related to party differences, differences between the executive and legislative roles, or something else? Have them evaluate whether the checks and balances system is a help or hindrance to creating public policy.

4. Have students find out how many women hold seats in Congress and positions in the cabinet. Are they surprised at their findings? How do they explain the numbers? Do they expect the numbers to change in the next election? In what way? What kind of attitude do they think most Americans have about women as national leaders? Do students see attitudes changing in any way?

5. Have students write an essay about what they think a successful campaign for president requires. Representative Patricia Schroeder mentioned two factors that would determine if she could wage a successful campaign. What were they? (She identifies money—$2 million—and creative and savvy organizers.) Does $2 million sound like a lot? Where would that money come from? Is this a disadvantage for some potential candidates? Ask several students to read their essays to the class.

6. In her article, Patricia Schroeder mentions concerns about the status of the American family as one of her main campaign issues. Have students write an essay detailing what their main issue would be if they were running for president. They must explain why the issue is important, and what kind of changes they would make as president.

7. Discuss the growth of presidential power over the years, especially in relation to areas not specifically mentioned in the Constitution. Consider such items as making executive agreements and deciding whether to use nuclear weapons. Then distribute a list of the following presidents to each student: George Washington, James Monroe, Andrew Jackson, Abraham Lincoln, Theodore Roosevelt, Woodrow Wilson, Calvin Coolidge, Franklin Roosevelt, Dwight Eisenhower, Lyndon Johnson, Richard Nixon, and Ronald Reagan.

Students are to place at least two presidents at each mark on a six-mark continuum from "Accepts political leadership from Congress" to "Asserts political leadership over Congress." Students may need to do some research to complete this exercise. Urge the class to arrive at a consensus on which names belong at each mark. Ask the students to make generalizations about the president's use of power (for example, early presidents tended to be more passive; presidents facing national crises are usually more activist).

8. Organize a debate on the following question: Do the times make the president or does the president make the times? Participants should use both current and historical examples as well as examples from the case study.

CHAPTER 4: THE BUREAUCRACY

MOTIVATOR

On the day before you plan to discuss the bureaucracy, ask students to bring a definition of "bureaucracy" to class. Write different definitions on the board. Also, have the class brainstorm words and ideas that come to mind in relation to the bureaucracy. Discuss their ideas and try to develop a clear class definition of the word. Then discuss public attitudes and perceptions about the bureaucracy. Ask them if they think the bureaucracy is effective. How do they think Americans in general feel about the bureaucracy? Ask for examples. Could the government run without the bureaucracy? Is "bureaucrat" a positive or negative term? Would they like to be called a bureaucrat? Would they ever want to be one? Are any of their parents part of the bureaucracy?

CHAPTER 4 . . . A FEDERAL AGENCY AT WORK

by Secretary Louis W. Sullivan

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss facts related to various social concerns in the United States.
2. explain the importance of various government-supported social programs.
3. evaluate the service of the federal department with the biggest budget—the Department of Health and Human Services (HHS).

STUDENT ACTIVITIES

Distribute **Student Handout 14—Spending on Social Programs.** Ask students to agree or disagree with each statement. Explain that all the issues raised deal with social policy—an area heavily administered by the federal bureaucracy. Discuss student responses to the six items on the handout. Encourage students to consider both sides of each issue. Use the following background information to develop your discussion:

- In 1990, the Census Bureau defined the poverty level for an urban family of four as an annual income of $12,675 or less.
- There are between 240,000 and 3 million homeless people in the United States, many of whom are members of families with children.
- In recent years, the United States spent approximately $18 billion on the food stamp program to feed 20 million Americans.
- Overall, Americans spend more on health care than do people in any other country. Health expenditures totaled $666.2 billion in 1990.
- In 1991, Congress appropriated $1.9 billion for the Head Start program, a special preschool program for disadvantaged children.

Next, have students read "A Federal Agency at Work" by Louis Sullivan. They should jot down the ways the government bureaucracy addresses the social needs of Americans. Discuss student reactions to the article. Were they surprised that the HHS budget is the third largest in the world? How does this role for the bureaucracy compare with the stereotypical view of the bureaucracy as inefficient and ineffective? Do students think the HHS budget is too small? Is it too large? If students would like to cut it, what would they cut? Do they think the money is being used efficiently?

CHAPTER 4 . . .

INCREASING THE RESPONSIVENESS OF THE FEDERAL BUREAUCRACY

by John M. Palguta

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss public attitudes toward the federal bureaucracy.
2. synthesize their personal views on the bureaucracy based on personal experiences.
3. utilize federal agencies for research purposes.

STUDENT ACTIVITIES

This activity allows students to conduct original research into the effectiveness of the bureaucracy. First, assign each student a particular federal agency or department and have him or her develop a question related to that agency. For example, for the Department of Justice, the student might try to find out the department's statistics on deaths from handguns in the past year. Or someone studying the Social Security Administration may ask how a disabled person can qualify for benefits. Students may either call or write the agency or department to which they have been assigned. They should write brief reports explaining their research and evaluating the responsiveness of the particular agency. They should also speculate as to why their agency was or was not helpful and responsive.

After students complete their research and write their reports, distribute **Student Handout 15—Views on the Bureaucracy** and have them read it individually. Then, ask them to select the quote that best describes how they feel after dealing with the bureaucracy. Urge them to write their own quotes. Lead a class discussion on the responsiveness of the bureaucracy. Why do students think the bureaucracy exists? How might it be improved? Do bureaucrats make a lot of money?

CHAPTER 4 . . . HOW DOES THE CIVIL SERVICE SYSTEM WORK?

by Constance Berry Newman

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss the accountability of the federal bureaucracy.
2. evaluate proposals to reform the bureaucracy.
3. explain some of the functions of the bureaucracy.

STUDENT ACTIVITIES

Have students brainstorm services that the federal bureaucracy administers. Write them on the board. The list might include such services as defending the country, maintaining national parks, collecting taxes, providing veterans' services, building and maintaining interstate highways, printing money, providing welfare services, and paying Social Security benefits. Ask students to guess how many people work for the federal government (approximately 3 million—not counting the nearly 2 million in the military).

Then, distribute **Student Handout 16—Who Gives the Orders?** Explain that the men and women who work for the biggest employer in the United States have many people competing for their allegiance. Remind students that most agencies and departments fall under the executive branch, but that Congress exercises oversight of their activities. Have students complete the handout.

Discuss student responses. Do students agree on their rankings? How do they differ? To whom should government employees be most accountable? To whom should they be least accountable? Explain that all of the items on the handout probably have some influence on a government employee's decisions—thus it is often difficult to please everyone. Try to arrive at a class ranking with a show of hands for each item.

Next, have students read Constance Berry Newman's article, "How Does the Civil Service System Work?" Discuss student reactions. Does the civil service system work well? What are some problems with it? Some people have suggested making more government services (like the postal service) private. Others have suggested a return to the patronage system, where presidents appoint the civil servants when they come into office. What do students think? What are the pros and cons of these ideas? Can they recommend any reforms?

CHAPTER 4 . . . THE ROLE OF CONGRESSIONAL OVERSIGHT

by Senator Albert Gore, Jr.

OBJECTIVES

At the end of this activity, students will be able to:

1. explain why congressional oversight is necessary to the legislative process.
2. understand why legislators sometimes feel frustration with the executive branch.
3. evaluate the effectiveness of congressional oversight.

STUDENT ACTIVITIES

Explain to students that they are about to participate in a lawmaking activity. They will model Congress by forming committees and determining classroom "laws" that they would like to see enacted. Break them into four committees of equal size. Each group should be assigned one legislative area, such as tardiness, late homework, makeup work, homework assignments, or grading. Each group should decide on two proposals to present to the class (Congress) for a vote. After they have developed their proposals, reconvene the class. After each committee presents its proposals, the class should vote on which of the two will become law.

After the students have voted on all proposals, explain to them that as the executive, the teacher has the power to decide how the laws will be implemented. For example, the executive can decide that the only day the tardy rule will be executed is the third Wednesday of every month, or that the grading policy only applies to A students.

Allow students to react. Ask them if they think the executive is implementing the laws as the class intended. Does the Constitution allow the president to act in this manner? What are ways that the class can make sure that laws are administered as they intended?

Conclude by explaining to students the idea of congressional oversight, which is a function taken on by Congress to ensure that the laws it makes also work and are implemented correctly. Have students read the article, "The Role of Congressional Oversight," by Senator Gore. After reading it, have them work individually or in small groups to answer the following on their own paper: Do you think congressional oversight of the bureaucracy is necessary? Why or why not? What are some of the limits of congressional oversight? Do you think congressional oversight helps or hinders the productivity and effectiveness of the federal government?

CHAPTER 4 . . . GOVERNMENT REGULATION: TWO VIEWS

by James Carty and Bruce Silverglade

OBJECTIVES

At the end of this activity, students will be able to:

1. compare and contrast various perspectives on government regulation.
2. defend a viewpoint on government regulation.
3. speculate on the sources of particular points of view.

STUDENT ACTIVITIES

In a brainstorming session, ask students to tell in one to three words what they think the term "government regulation" means. Write their responses on the board. Develop a definition on which the class can agree. Ask students to think of specific things that the government regulates; for example, the printing of money, safety features in cars, building regulations, food label regulations, pollution regulations, and so forth. Explain that while regulations are usually designed to protect the consumer or industry or both, sometimes they can be costly and burdensome. For example, while pollution control regulations help the environment, they also add costs to production because anti-pollution devices and procedures are expensive. That often means a company must charge its customers more for its services or products.

Next, tell students that they will be reading two perspectives on government regulation—one from a consumer's perspective and one from a business perspective. Discuss how these perspectives may differ. What is the goal of government regulation? How do consumers and businesses stand to benefit from government regulation? In what ways does regulation interfere with the interests of consumers? Of businesses? As a prereading activity, distribute and ask students to complete **Student Handout 17—Comparing Views on Regulation.** Then, have students read the articles by James Carty and Bruce Silverglade, and ask them to highlight the quotes from the handout when they see them in the articles. They should check the answers on their handouts. Were students surprised by the sources of any of the statements? How are the two articles different? Alike? Do the views espoused in the articles differ from students' impressions in the earlier discussion? How? Why does each man hold the view that he does? Is one view more accurate than the other? Why? Why is it important to consider different perspectives?

(The quotes on the chart are attributed as follows: Numbers 1, 2, 3, 5, 8 are from Carty and 4, 6, 7, 9 are from Silverglade. Quotes that could represent either side based on the articles are 1, 3, 5, 7.)

CASE STUDY

THE BUREAUCRACY

THE SAVINGS AND LOAN CRISIS: A NATIONAL NIGHTMARE

by Cindy Graff Hobson

OBJECTIVES

At the end of this activity, students will be able to:

1. explain key aspects of the banking industry and factors contributing to the savings and loan crisis.
2. express opinions regarding the bureaucracy and the savings and loan crisis.
3. evaluate the effectiveness of other forms of government regulation.

STUDENT ACTIVITIES

Tell the class that you are going to conduct an experiment to determine how well they can manage their money. Distribute to each student equal amounts of symbolic money, such as poker chips, play money, or index cards. Students are going to decide individually what they will do with their money. Give them two alternatives: save it in a bank, where it will earn interest, or put a down payment on a house and take out a loan for the remainder of the cost of the house. Then place two containers in the front of the class with the labels "bank" and "house." Have students put their money in envelopes marked with their names and drop the envelopes in the container of their choice.

Continue by playing the role of the bank owner. Explain that in giving one student a loan to buy a house, the bank lends another student's deposited funds. The bank also uses those funds to make loans to companies, especially those that are building houses, shopping malls, and office buildings. Discuss what happens to the depositor's funds if the borrowers cannot pay back the bank.

Explain that the banking industry is regulated by the government (bureaucracy) and that banking agencies, such as the FDIC and FSLIC, were established by the government and paid for by banks to pay depositors back if a bank fails. What happens when money in this fund is all gone?

Tell students that experts say that the failure of hundreds of savings and loan institutions in the 1980s has already depleted the funds, and predict that clean up efforts will cost every man, woman, and child in the United States $2,000 before the problem is straightened out. For homework, have students read "The Savings and Loan Crisis: A National Nightmare," and write a one-paragraph summary of why American taxpayers will be footing the bill for private bank failures.

During the next class period, discuss students' responses to the case study. What four factors contributed to the savings and loan crisis? (The factors were deregulation, falling real estate values, falling oil prices, and lobbying by savings and loan interest groups.) Who was at greater fault—government bureaucracy or savings and loan officials? Why?

Explain that in regulation, the government tries to ensure that businesses and service providers play fair in American society. On the whole, how successful is the government in guaranteeing fairness? Have students independently research and evaluate regulations and agencies, such as the Civil Rights Act of 1964 and the Equal Employment Opportunity Commission or the Americans with Disabilities Act.

CHAPTER 4 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The Bureaucracy." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. Have students call or visit their local welfare or state employment office to find out basic information on the qualifications and procedures for applying for an entitlement program. Programs to consider for this project include:

- Aid to Families with Dependent Children (AFDC)
- food stamps
- Low-Income Energy Assistance
- Medicaid
- Medicare
- public housing
- Supplemental Security Income (SSI)

If possible, students should get an application form and interview a welfare or employment office worker about the application process. What are their thoughts about the questions on the application form? Do they think benefits should be easier or harder to get? What was their general impression of the process? How well is the bureaucracy working in carrying out these programs?

2. Have students research the functions of the Defense Department. What functions fall under the title of "defense"? What is the size of the defense budget? This department has been criticized for overspending on small items rather than buying competitively. Have students investigate instances of alleged government waste in the Defense Department and share their findings with the class. Does the government bureaucracy work well in the defense area? What improvements would students recommend?

3. Ask students to write the quote they selected from **Student Handout 15—Views on the Bureaucracy** or their own quote on a big sheet of paper. Have them illustrate this sheet with articles, pictures, and symbols that reflect their particular quote. Display the illustrations around the classroom or the school.

4. Ask students to develop a questionnaire to measure public attitudes toward the bureaucracy. Each student should interview three to five people; the class should then compile the results. Ask students to generalize about the bureaucracy as well as the effectiveness of their survey. Some students may want to write a story for the school newspaper based on the results of the survey.

5. Have students debate one of the following statements:

- The bureaucracy does more harm than good.
- Bureaucrats are overworked and underpaid civil servants.
- Bureaucracy is based on a willingness to pass the buck or spend it.

6. Government employees do not have the same freedoms as other Americans. Have students research the rights of and limits on federal employees. Some areas of interest might include the Hatch Act, which limits government employee participation in partisan elections; compulsory drug testing, which is now in effect in many federal agencies; and loyalty oaths, which were used at one time to ensure that employees were not communists. Have students share their findings with the class, and discuss whether such limits are fair.

7. To better understand the scope of the federal bureaucracy, have students research various federal departments and create a bulletin board. Students should look into cabinet departments, government corporations (such as the Tennessee Valley Authority), independent agencies (such as the Environmental Protection Agency), and regulatory boards or commissions (such as the Federal Reserve Board). Most importantly, students should find out and post information on the services these organizations provide. In addition, the display should include photos, mission statements, organizational charts, newspaper articles, and other items illustrating each organization.

8. Explain that at the turn of the century government bureaucracy and regulation were minimal. Services such as lending money and distributing welfare were provided differently. To exemplify this, have students conduct research into the 1860s New York City government establishment, Tammany Hall, run by William Marcy "Boss" Tweed. Students should explore how services were provided and how citizens' needs were taken care of. Was that system fair? Was it efficient? How does the system set up by Boss Tweed differ from today's system of agencies, rules, and fact-finding commissions? What are students' opinions of bureaucracy now?

9. Invite officials who work for or with the federal bureaucracy to speak to the class about the effectiveness of bureaucracy. Students should prepare questions ahead of time using the readings in "The Bureaucracy." Possible speakers might include:

- Local representatives, senators, or congressional staff to discuss congressional oversight.
- Representatives from a regulatory agency or a local business to discuss the effects of government regulation.
- Representatives from the Resolution Trust Corporation (RTC) or a local savings and loan company to speak to the class about the savings and loan crisis.

10. Have students find out how to apply for a federal government job. They should gather information about the process and obtain the necessary forms (available at the Office of Personnel Management, 1900 E Street NW, Washington, D.C., 20415). Then have students evaluate the process. Is it fair? Was it easy to get information and apply? Would they be able to get a job with the federal government?

CHAPTER 5: THE JUDICIARY

MOTIVATOR

> *We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense . . .*
>
> —Preamble to the Constitution of the United States

The concept of equal justice under the law has been a basic principle of our nation since its founding. Have students work in groups of three or four to determine what they think the nation's founders meant by the term "establish Justice" in the preamble. Each group should develop its own definition.

Next, have the groups share their definitions in a class discussion, comparing and contrasting their ideas. Prompt students with questions such as: What is your concept of justice, based on personal experience, previous readings, and the media? Does justice mean the same to all people all of the time? For example, has the concept of justice changed from 1787 to the present? How might a person's sex, race, or income affect his or her definition of justice? Do people in our country define justice differently than people in other countries? Do you think "equal justice under the law" exists in the United States today? Why or why not?

Post a complete class definition of justice on the board. You may wish to repeat this activity later to see if your students' definition changes.

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CHAPTER 5 . . . THE BILL OF RIGHTS AND AN INDEPENDENT JUDICIARY

by Chief Justice William H. Rehnquist

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss the value of an independent judiciary.
2. describe the status of individual rights in the absence of an independent judiciary.
3. recommend maintaining or changing the current Supreme Court system.

STUDENT ACTIVITIES

Have students read "The Bill of Rights and an Independent Judiciary" by Chief Justice William Rehnquist. Next, put each of the following proposals on individual cards:

- Members of the Supreme Court should be popularly elected.
- Members of the Supreme Court should be restricted to two-year terms of office.
- All Supreme Court deliberations should be made public.
- Individual justices should be required to vote according to the philosophy of the president who appointed them to the Supreme Court.
- The government should be allowed to bypass the Court's authority in prosecuting certain criminal offenses.

Divide the class into five groups of equal size. Give each group a proposal card. Have the groups review Rehnquist's article and recent Court actions to find information that will help them either justify or reject the proposal they have been given. Students should focus on how each recommendation would affect individual rights. Each group should prepare a one-page written recommendation to present to the class, detailing whether the law should be changed. Lead a brief class discussion about each group's recommendation.

CHAPTER 5 . . . PORTIA'S PROGRESS: WOMEN AND THE LAW

by Justice Sandra Day O'Connor

OBJECTIVES

At the end of this activity, students will be able to:

1. recognize typical male-female stereotypes.
2. describe stereotypes that have kept the legal profession dominated by men for many years.
3. evaluate Justice O'Connor's views of women in the judiciary today.

STUDENT ACTIVITIES

Begin this activity by writing the following want ad on the board:

> *Help Wanted:* Television news anchor. Six years broadcast reporting experience. Must be able and willing to travel extensively. Good interviewing skills required. Men need not apply because they are too gruff, argumentative, and assertive.

What are students' reactions? Is this view of men accurate? Is the stereotype in this ad fair? Why or why not? Explain that until this century, women in the United States were denied equal footing with men in many areas, particularly employment in certain fields.

Students should read "Portia's Progress: Women and the Law," by Sandra Day O'Connor. While reading, they should make a list of the reasons O'Connor gives for the exclusion of women from the judiciary.

Discuss students' reactions to the article. Were there good reasons for excluding women? What stereotypes did O'Connor describe in the opening of the article? Are these true? Are decisions based on stereotypes ever justified?

Finally, discuss O'Connor's view of the "different voice" theory. Carol Gilligan, author of the book *In a Different Voice: Psychological Theory of Women's Development*, argues that men and women are morally different, though one is not superior to the other. O'Connor finds this view threatening, because it could lead to recasting work into "women's work" and "men's work." She believes men and women will come to the same decisions on the Court bench. What do students think?

CHAPTER 5 . . . THE SUPREME COURT: DECIDING WHAT TO DECIDE

by Phillip L. Spector

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the reasons why certain cases are selected for review by the U.S. Supreme Court.
2. apply selection criteria to various cases.
3. evaluate the impact of case selection on the court's historical role.

STUDENT ACTIVITIES

Review with the class the jurisdiction of the Supreme Court. One way to start the discussion is to ask students to think of significant cases and have them speculate why the Supreme Court ruled on those cases rather than letting lower courts have the final word. Cases to discuss might include *Roe v. Wade, Gideon v. Wainwright*, and *Miranda v. Arizona*. Explain that the Supreme Court follows certain broad criteria in determining which cases they will hear in court.

Have students read Phillip Spector's article, "The Supreme Court: Deciding What to Decide," and ask them to look for the criteria the justices use to select cases. Assign **Student Handout 18—Will They Hear This Case?** to the class, and have students work individually or in small groups. Discuss their responses. What do they think is the most important criteria for the Court to use? Why? Are there other criteria besides the ones Spector mentions that the Court should use? Does the Court's "decision to decide" affect public policy? Can you give examples?

(Answers to the handout: Case A—5, 6; Case B—5, 6; Case C—5, 6; Case D—4; Case E—5, 6; Case F—3; Case G—1, 5, 6; Case H—2.)

Finally, assign students a one-page essay explaining the following statement:

> The Supreme Court's ability to decide what it will decide has had a strong impact on its history and institutional role.

Students can use *Perspectives* or other books as well as newspaper and magazine articles to help them develop their responses. Encourage them to cite specific cases. The most thorough and thoughtful essays can become part of a class display on the Supreme Court. You may also want to include student-developed timelines covering significant cases, quotes from famous Court opinions, and profiles of influential justices.

CHAPTER 5 . . . TWO SYSTEMS OF JUSTICE?

by Mary Broderick

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss the importance of a quality legal defense for all people.
2. evaluate possible solutions to public defense problems.
3. analyze the principles raised by Supreme Court case *Gideon v. Wainwright*.

STUDENT ACTIVITIES

Divide students into groups of four or five, and have them read **Student Handout 19—*Gideon v. Wainwright*.** They should discuss and answer the related questions among themselves.

Then, have the class read the article "Two Systems of Justice?" and analyze the solutions Mary Broderick proposes. What modifications, if any, would students make to ensure that poor people accused of crimes get the same quality of justice as others?

CHAPTER 5 . . . HOW JUDGES SHOULD INTERPRET THE CONSTITUTION: TWO VIEWS

by Robert H. Bork and Laurence H. Tribe

OBJECTIVES

At the end of this activity, students will be able to:

1. describe the strict construction approach and the notion of a living Constitution in interpreting the Constitution.
2. develop arguments for both points of view.
3. explain which view they think is more persuasive.

STUDENT ACTIVITIES

Tell students that you are giving a short quiz to determine how well they understand the Constitution. Students will work individually and write answers on their own paper. Read aloud or write on the board the following questions, and tell students to choose the best answer.

1. The right to freedom of speech means:
   a. freedom to talk about whatever one wants.
   b. freedom to talk, write, appear, and behave as one wants.
2. The right to "due process" of the law means:
   a. the government must apply the laws fairly in the manner that the framers of the Constitution intended.
   b. the government must apply the laws fairly by today's standards.

***Note:** There are no absolutely correct answers; they are up for interpretation. That is one reason why interpreting the Constitution is so difficult.*

Call on students to share their answers. Why did they choose their answers? Was one question easier or harder to interpret? Should a person interpret the Constitution by strictly reading the words, or by also reading between the lines and interpreting meanings? Why?

Explain that there are generally two schools of thought on interpreting the Constitution. One is strict constructionism (also described as original intent or judicial restraint), for which Robert H. Bork argues in his article. The other is the notion of a living Constitution (some scholars refer to it as interpretativism or judicial activism), advocated by Laurence H. Tribe. Have students read "How Judges Should Interpret the Constitution: Two Views," and highlight key arguments for each view to be used in the next part of this activity.

Then, divide students into groups of three or four and distribute **Student Handout 20—Interpreting the Constitution.** Students should work together to complete the handout and come to a consensus on the best approach to interpreting the Constitution. They should be prepared to defend their opinions using examples from actual cases, current events, and the articles.

Reconvene the class and discuss student responses. Did group members easily agree on the best approach? Does the whole class agree? Why did they choose as they did? Are there dangers in interpreting the Constitution too strictly or too loosely?

CASE STUDY

THE JUDICIARY

JUDICIAL ACTIVISM AND ABORTION

by Nancy A. Bergman

OBJECTIVES

At the end of this activity, students will be able to:

1. analyze Court actions.
2. generalize about the uses of judicial review.
3. discuss the evolution of the Court's role in policymaking.

STUDENT ACTIVITIES

Explain briefly the difference between judicial review, judicial activism, and judicial restraint, and then have students brainstorm about the meaning and implications of those terms. What do they think the Supreme Court should do as the nation's highest court? Write some of the key themes on the board for later review.

Distribute **Student Handout 21—Judicial Activism and Judicial Restraint,** and ask students to complete it as they read the case study. They should make generalizations about Court actions in relation to the abortion issue. Is this generalization in line with the earlier perceptions of the Supreme Court posted on the board? Discuss how the role and power of the Court has evolved since *Marbury v. Madison*. Do they think the founders intended the Court to take an active role in determining public policy on such issues as abortion? Why is the Court powerful? Some experts say the judicial branch is the most powerful of the three branches. Do students agree?

CHAPTER 5 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The Judiciary." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. Have the class role play the French Revolutionary Tribunal as Rehnquist described it in his article. Ask the tribunal to debate and decide certain landmark rights cases, such as *Gideon v. Wainwright* (1963), *Miranda v. Arizona* (1966), or *Brown v. Board of Education of Topeka, Kansas* (1954).

2. Invite a judge or judicial expert to speak to the class about differences between a conservative and a liberal Supreme Court. See if students can determine what kind of Supreme Court Rehnquist presides over from his article and from recent Court decisions. Can the Court be truly independent if it shifts between conservative and liberal interpretations of the law? Why or why not?

3. Have students research the backgrounds of former and current Supreme Court justices. How many women have served on the Court? How many African-Americans? How many Asian-Americans? How many Hispanic Americans? To many, the Supreme Court is the guardian of individual rights. Can a predominantly white male Court be an effective guardian for the rights of all Americans? In answering, have students cite Court cases to support their views.

4. Have students clip articles pertaining to the Supreme Court, or conduct research into a recent Court session. Ask students if they can use evidence from their research to make any generalizations about the cases the Supreme Court decided to hear or about the impact of its decisions.

5. Ask students to consider how their lives may be different today if the Supreme Court did not exist. To explore the impact of such decisions, have them interview parents, grandparents, and neighbors about how their lives have been changed by Supreme Court decisions. In addition, bring to class or ask students to find summaries of major court decisions, particularly those related to students' rights, such as *Tinker v. Des Moines School District*, *T.L.O. v. New York*, and *Brown v. Board of Education of Topeka, Kansas*. Students should also analyze those opinions to determine whether the judges were exercising judicial activism or judicial restraint. What difference would it have made to the schools if those cases were interpreted another way?

6. Ask students to explore the status of poor people in the U.S. legal system. Students should individually research and write a report comparing the economic status of those who get convicted with the status of those who do not. After completing their reports, students should share them in a class discussion. If they were poor and were accused of a crime, do they feel that they would get a fair trial in today's justice system? Why or why not? If they believe they would not get a fair trial, what should or could be done to ensure otherwise?

7. Arrange for your class to observe a trial in a local courtroom, preferably a case using a public defender. If possible, arrange a question-and-answer session with the judge or lawyers after the session. Ask them what the concept of "equal justice under the law" means to them and what importance they place on the public defense system in striving for "equal justice."

8. In groups, have students compare the *Perspectives* articles by Senator Orrin Hatch and Justice Thurgood Marshall in Chapter 1. What views do the two men take on interpreting the Constitution? Have groups create a two-page portfolio on interpreting the Constitution, using profiles of Robert Bork, Laurence Tribe, Orrin Hatch, and Thurgood Marshall; quotes from their respective articles; and artwork that portrays strict constructionism and the notion of a living Constitution.

9. Have students read excerpts from the *Federalist* papers No. 51 and No. 78. Ask them to evaluate how judicial activism fits in with the role of the judiciary in the checks and balances system set up by the framers of the Constitution.

CHAPTER 6: THE MEDIA

MOTIVATOR

Bring a variety of newspapers and news magazines to class. If possible, also tune in to radio and television newscasts. Set up different stations around the room and ask students to read or listen to each. Have them list three topics being given priority by each medium that day.

In a class discussion, see if students can agree on the media's news priorities. Why were these topics featured in the day's news? Can students identify other issues that are not receiving as much attention? How do different sources treat similar issues? Why do some issues receive attention while others do not?

Finally, ask the class how informed they think they are about current events. Do they trust the media to keep them well informed? How much power do they think the media have?

CHAPTER 6 . . . THE VALUE OF A FREE PRESS

by Marvin Kalb

OBJECTIVES

At the end of this activity, students will be able to:

1. present arguments for both censorship of the press and unrestricted freedom of the press.
2. evaluate where the line should be drawn between freedom of speech and censorship.
3. speculate on the consequences of a society with total censorship or unrestricted freedom of the press.

STUDENT ACTIVITIES

Once students have read "The Value of a Free Press" by Marvin Kalb, divide the class into groups of four or five. Assign half of the groups the topic "Complete Censorship" and the other half "Unrestricted Freedom of the Press." Ask each group to brainstorm for five to ten minutes to imagine what American society would be like if media coverage were at either of these two extremes. What would be the consequences—both positive and negative? Have each group share its ideas with the rest of the class.

Draw the following continuum on the board.

Complete censorship ↔ Unrestricted freedom of the press

Ask each group to come to consensus about where its members believe the United States stands today on the issue of freedom of the press. Have a spokesperson from each group explain its answer. Where on the continuum do students think the optimal balance between these two extremes would lie? How does their ideal compare with reality? If the two do not mesh, what could be done to bring the real and the ideal more in line with each other? What rights does the First Amendment guarantee?

CHAPTER 6 . . . NEWSPAPERS AND THEIR COMMUNITIES

by Robert C. Maynard and Eric Newton

OBJECTIVES

At the end of this activity, students will be able to:

1. compare and contrast newspaper and television news coverage.
2. evaluate the role of local newspapers.
3. discuss the role of an independent media.

STUDENT ACTIVITIES

Divide the class in half. Select a national issue. Have one half watch and take notes on the issue from a national television news program. Encourage students to watch different networks. The other half should read and clip articles on the issue from a daily newspaper. It may take two or three days for students to gather sufficient material for discussion—at least two articles per student.

After data has been collected, break each half into smaller groups and give them ten minutes to discuss the information they have gathered. Have each group select a spokesperson, who should prepare to discuss his or her group's information with the class. Then, have each group sit in front of the class. The spokesperson should lead a panel discussion of his or her group's findings. Repeat for each group.

Then, in a class discussion, have students address the differences between television and newspapers. Did one medium cover the issue better than the other? Which medium would students prefer if they needed a lot of information fast? If they needed information for a research paper? Which source do they use now? Repeat the same process using a local issue, local newspapers, and local television news. The groups should switch duties to get exposure to other mediums. Discuss the differences (if any) between national and local news coverage, and between print and televised news coverage.

Students should then read the article "Newspapers and Their Communities" by Robert Maynard and Eric Newton. Discuss class reactions. According to the authors, why is an independent media important? Why do the authors say that community newspapers are more helpful in a local crisis than television news? Do students agree? What is the argument for television news?

Finally, explain to students that even though newspapers serve an important purpose, they are slowly losing readers to television. What reasons can students give for this development? Do students think this is acceptable?

CHAPTER 6 . . . THE MEDIA AND GOVERNMENT

by Jody Powell

OBJECTIVES

At the end of this activity, students will be able to:

1. explain ways the media report on the government.
2. discuss Powell's criticisms of the media.
3. evaluate the objectivity of the news media.

STUDENT ACTIVITIES

Ask students to read "The Media and Government" by Jody Powell. Then place students in groups of three or four and have each group collect information on one current controversial issue involving the president of the United States. Students should strive to use a variety of sources. You can help by bringing in videotapes, newspapers, magazines, and journals for them to consult—the more the better. Each group should discuss the following questions:

- Are the reports complimentary, critical, or neutral in their discussion of the president and the government?
- Do any reports use unidentified sources?
- Does the amount of information presented affect your view of the issue?

Have groups share their answers in a class discussion. Discuss Powell's criticisms of the media. Do they think Powell is fair in his evaluation of the media? What experience does he have with the media? Do they think his experience has influenced his viewpoint? Do they agree or disagree with his perception of the media?

Finally, point out to your students that members of the media often try to be objective in their reports. Then, in either a short essay or class discussion, have students explain whether objectivity is possible. Make sure they support their arguments with specific examples.

CHAPTER 6 . . . AN EDITORIAL CARTOONIST LOOKS AT HIS WORK

by Bob Gorrell

OBJECTIVES

At the end of this activity, students will be able to:

1. weigh the strengths and weaknesses of written and cartoon materials in communicating an issue.
2. evaluate editorial cartoons using established criteria.
3. identify significant characteristics of editorial cartoons.

STUDENT ACTIVITIES

Have students read "An Editorial Cartoonist Looks at His Work," by Bob Gorrell. Discuss with them the differences Gorrell points out between an editorial cartoon and a written news story or editorial.

Find an editorial page from a recent newspaper that features both a written editorial and a cartoon about the same issue. Ask students to examine the two items. Then evaluate the strengths and weaknesses of the written and illustrated portions of the page. Which do they think was more effective? Why?

Next, ask students to bring to class an editorial cartoon they like or draw their own. Post all the cartoons on a bulletin board, assign each a number, and allow students to evaluate each one using **Student Handout 22—Cartoon Evaluation.**

Each student should select the cartoon he or she thinks best meets the criteria on the handout. Tally student votes and discuss the top five cartoons selected. What do these cartoons have in common? Would a different group of people select different cartoons as best? Does the issue the cartoon addresses have anything to do with its effectiveness? How much does the cartoonist's artistic style contribute to a cartoon's effectiveness?

Finally, have students summarize in one or two paragraphs what characteristics make up an effective cartoon, and in their opinion, whether cartoons or written text are more effective in conveying messages.

CHAPTER 6 . . . BIAS IN THE MEDIA: TWO VIEWS

by Joseph C. Goulden and Andrew L. Shapiro

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss the meaning of bias in the media.
2. analyze different news sources for political slants.
3. speculate about the effects on their points of view if bias goes undetected.

STUDENT ACTIVITIES

Ask students to define bias. Write their ideas on the board. Then, go back through the definitions, and ask them for examples of bias (real or hypothetical). Is bias easy or difficult to detect? How can a viewer or reader detect bias? What happens if a viewer or reader is unaware of bias? Do all news sources exhibit some kind of bias?

To further explore the concept of bias in the news, have students select one current issue and collect as many news sources as possible. You can help by bringing a wide variety of news sources to the class. Look for newspapers from various cities, news magazines, tabloids, and so forth. What do most of the sources say about the topic? What are the alternative views? Do students think their opinions would be slanted if they only read one of the accounts?

Next, divide students into groups of three or four, and have them develop a list of ways a reader or viewer can guard against bias. They should give you their lists when completed. Set them aside for later.

Have students read "Bias in the Media: Two Views." As they read, they should write down four statements supporting the argument that media exhibits a liberal bias and four supporting the argument that media exhibits a conservative/status quo bias. Discuss student reactions and answers. Was one argument stronger than the other? Take a class vote. Why did they vote the way they did? Considering both authors' views, what generalizations can students make about getting information from the media?

Finally, have students return to their groups and reexamine the lists of ways to guard against bias. Would they add anything else to their lists? Compile the groups' lists to make one class list. Post it on the board so that it can be referred to whenever media is used in class.

CASE STUDY

THE MEDIA

THE U.S. GOVERNMENT, THE MEDIA, AND THE PERSIAN GULF WAR

by Nancy A. Bergman

OBJECTIVES

At the end of this activity, students will be able to:

1. evaluate restraints on freedom of speech during wartime.
2. explain the pros and cons of military restrictions on freedom of speech and press during wartime.
3. propose a plan for media coverage of military operations.

STUDENT ACTIVITIES

Read the following hypothetical situation to students:

> Last week, three students were stricken with food poisoning after eating tacos for lunch in the school cafeteria. School officials suspected someone of tampering with the food. Reporters for the school paper discovered this, but were prohibited from printing the story. The officials believed they were close to catching the culprit, and thought that if details were revealed, the culprit would be able to avoid getting caught.

Discuss student reactions to the situation. Did the students who ate that meal have a right to know all the details? Did the families of the stricken students have the right to tell others? Why or why not? Explain that the government sometimes feels it must restrict information to the public to protect the people, and this causes natural tension with the "watchdog" of the government—the media. In times of war, these questions take on grave importance.

Have students read "The U.S. Government, the Media, and the Persian Gulf War." As they read, they should make two lists: (1) why government *should be allowed* to restrict media activity during the war; and (2) why government *should not be allowed* to restrict media activity. Next, divide students into groups of three or four. They should come to consensus on the top three reasons for each. Have the groups share their lists with the class. Is there class consensus on any of the reasons? What differences occurred? Which side has the stronger arguments?

Groups should also develop rules for media coverage of military events. Have a representative from each group write his or her group's plan on the board. Then have students vote for the plan they think is best. What is the top concern addressed by the different plans? Why is it important? How would students evaluate the media coverage of the Persian Gulf War now?

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CHAPTER 6 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The Media." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. Discuss recent media controversies, such as whether the press should publicize the name of a rape victim in a trial involving a celebrity, or whether the media have the right or obligation to publish the name of a celebrity who has been diagnosed with AIDS. Does the public have the right to know personal information about public figures? Students may want to debate the following:

> The public has a right to know about the personal lives of political candidates.

2. Have students research Supreme Court cases dealing with freedom of the press. Then discuss their findings. Have the rights been expanded or limited? What overall trends appear?

3. Have students look at old newspapers in a school, city, or college library. What role did newspapers play in recording a "first rough draft of history"? How are they different from today's newspapers? How are they the same? What would students predict as the role for newspapers in the future?

4. Invite representatives from the media to speak to the class about the news. If possible, have representatives from both television and print media attend. The speakers should discuss what criteria are used to decide what is and is not news and how members of the media try to eliminate bias. They should also discuss criticisms leveled at their medium. Students should prepare questions prior to the visit.

5. Ask students to survey fellow students and members of the community on their media habits. Questions might pertain to where people get their news, how much television news they watch, whether they read a daily newspaper, whether they trust the media, and so forth. Have students compile their results, and ask them to generalize about trends in media use.

6. Ask students to draw their own editorial cartoons relating to a national, state, local, or school issue. Stress that artistry is not as important as the message. After they finish, students should write a paragraph on how they decided on the topics of their cartoons. Post the cartoons on a bulletin board in your classroom.

7. Ask students to conduct research into well-known caricatures. For example, they might look for the common drawings of the symbols for the Democratic and Republican parties, U.S. presidents, the budget deficit, etc. You may want to assign several students to find copies of cartoons associated with major issues in U.S. history, such as the abolitionist and women's movements, wars, and

scandals such as Teapot Dome or Watergate. Students should develop a two- to three-page portfolio on one topic that includes caricatures, descriptions, and their thoughts on if and why these caricatures have endured. After students have completed their assignments, share the portfolios with the class. Select a few to discuss. Why do they think that some characteristics are greatly exaggerated? What effect does this have on the cartoon's appeal?

8. Ask students to apply their skills in analyzing cartoons to analyzing print advertisements, particularly magazines. They should each bring two ads to class and display them around the room. Then, using the cartoon analysis format, every student should analyze four ads. They should consider what message the pictures convey and how the ad is related to the product. How do magazine ads differ from cartoons? Can students make any generalizations about this use of the media? Is it effective?

9. Have students monitor the media regularly. Divide the class into groups and assign each group an issue, such as the budget, defense, health care, and the like. They should monitor two or three news sources per week and look for bias, unsupported generalizations, the absence of women and minority viewpoints, and so forth. If students detect a major abuse, have them respond by calling or writing a letter to the editor.

10. To observe the media in action, have students watch a televised press conference in which an official fields questions from reporters. Students should evaluate how well the official answered the questions. How effective was the press conference in uncovering information? Who came off best in the press conference—the press or the principal respondent?

CHAPTER 7: INTEREST GROUPS

MOTIVATOR Write the following terms on the board:

- groups
- interest groups
- associations
- factions

Ask students to brainstorm ideas and definitions for each of these terms, pointing out that each has a significantly different meaning. Then have students research the actual definitions in textbooks and dictionaries. Explain that interest groups have been an important and sometimes controversial part of the American political system since its birth. Share the following quote from James Madison, writing in *Federalist* No. 10:

> *By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens or to the permanent and aggregate interests of the community.*

Discuss Madison's quote in reference to current attitudes toward interest groups. Finish by asking students to think of interest groups with which they are familiar. Round out their list by mentioning less obvious interest groups, such as the National Football League. Point out that interest groups are a vital force in American society.

CHAPTER 7 . . .

LOBBYING: THE GOOD, THE BAD, AND THE PINSTRIPED

by Nancy M. Neuman

OBJECTIVES

At the end of this activity, students will be able to:

1. identify the variety of tools available to interest groups.
2. rank the importance of these tools to a successful lobbying campaign.
3. discuss the impact of the use of such tools on the democratic process.

STUDENT ACTIVITIES

Ask students to brainstorm about lobbying. What do they think of when they hear the term "lobbying" or "lobbyist"? What does a lobbyist do? Explain that lobbying is part of a citizen's right to petition the government. Lobbyists, usually working for interest groups, try to persuade government officials to see their point of view and pass favorable legislation.

Next, have students read Nancy Neuman's article, "Lobbying: The Good, the Bad, and the Pinstriped." Neuman refers to the need to create a "balance in the marketplace of ideas" as a justification for lobbying activities. In a class discussion, emphasize that the underpinnings of interest groups' rights in the United States are found in the First Amendment and in the writings of James Madison.

Ask students to list all the tools that lobbyists have available to them. Some items to consider include number of members or supporters, financial resources, access to powerful political figures, public relations savvy, on-staff attorneys, and political action newsletters.

Conclude by dividing students into groups of four or five and having them rank which tools are most important to a successful lobbying campaign (they may want to refer back to the article). Do students think that these tools create a balance or imbalance in the marketplace of ideas? How important is money? If students believe that the system is out of balance, what do they think can be done to help balance the system?

CHAPTER 7 . . . A MEMBER OF CONGRESS LOOKS AT LOBBYING

by Senator Malcolm Wallop

OBJECTIVES

At the end of this activity, students will be able to:

1. describe a variety of opinions about lobbying.
2. evaluate Wallop's perspective on lobbying.
3. analyze a political cartoon.

STUDENT ACTIVITIES

Have students conduct informal surveys of neighbors, peers, relatives, and school officials on what lobbying means. Students should share the answers with the class. Write the various definitions on the board.

Next, have students read Senator Wallop's article, "A Member of Congress Looks at Lobbying," and jot down his definition of lobbying. Discuss Wallop's view with the class. Does the senator's view of lobbying match any of those from the students' surveys? Does Wallop see lobby groups as positive or negative influences on the democratic process? What experience does he have with lobby groups? Why might a member of Congress hold this view?

Then, divide students into groups of four or five. Have them analyze the cartoon accompanying Senator Wallop's article, using **Student Handout 22—Cartoon Evaluation.** Ask each group to tell the class its interpretation of the cartoon. Do the groups agree? Discuss what the cartoon implies about the relationship between Congress and lobbyists. Do students agree? Why or why not?

CHAPTER 7 . . . THE SECRET TO EFFECTIVE LOBBYING

by James Jay Baker

OBJECTIVES

At the end of this activity, students will be able to:

1. describe Baker's ideas for successful lobbying.
2. discuss both sides of the issue of gun control.
3. plan and execute a lobbying role-play activity incorporating Baker's suggestions for effective lobbying.

STUDENT ACTIVITIES

Before students read James Jay Baker's article, "The Secret to Effective Lobbying," inform them that the group for which Baker works is the National Rifle Association (NRA), widely renowned for its lobbying success. Explain that while critics charge that the NRA wields too much influence over Congress, others say that the NRA simply has the ability to mobilize grassroots support. Tell students to jot down the keys to successful lobbying as they read the article.

After they have finished reading, discuss Baker's secrets for successful lobbying. He points out that people, or the number of supporters, are critical, as is the ability to provide accurate and plentiful information to members of Congress. Divide the class in half, and assign one half to research the NRA and the other half to research Handgun Control, Inc., an organization promoting the regulation of handguns. They should prepare three main arguments and three counterarguments to convince a member of Congress to adopt their side's position regarding gun control while rejecting the opposing side's view. Students should also prepare a lobbying strategy—what tools (as suggested by Baker) will they use to reinforce their arguments?

At the next class meeting, assign students to small groups with equal representation on both sides and set up debates about gun control. If possible, invite neutral observers to the class to role play as members of Congress. After each debate, have the observers state what action he or she would take as a result of the lobbying campaign. Discuss student reactions. Do they agree with the observers? Why or why not? Did popular will prevail? Why or why not? Do students think that popular will always prevails in lobbying campaigns?

CHAPTER 7 . . . POLITICAL ACTION COMMITTEES: TWO VIEWS

by Senator David L. Boren and Thomas Berglund

OBJECTIVES

At the end of this activity, students will be able to:

1. compare and contrast arguments about political action committees (PACs).
2. compare and contrast proposals to change the system regarding PAC contributions.
3. explain their own opinions on the issue of PACs.

STUDENT ACTIVITIES

Distribute **Student Handout 23—Political Action Committees.** For homework, have students read "Political Action Committees: Two Views." As they read, students should complete the handout.

In class, divide students into groups of three or four, and have them analyze their charts, comparing and contrasting both sides of the issue. They should discuss and record answers to the following:

- Which argument is more valid? Why?
- With such conflicting arguments, how can Americans decide if PACs are good or bad for the nation?

Then, have students examine Boren's four-point proposal to limit PACs. They should contrast this with Berglund's suggested reforms. What do the two proposals have in common? How do they differ? Do students see any attempts at compromise in either of these proposals?

Finally, ask each student to use his or her completed chart to write a one-page position statement on the issue of PACs. Students should organize their position around one of two themes, "Competition and Compromise" or "Participation and Power." Conclude by asking volunteers to read their position statements to the class.

CASE STUDY

INTEREST GROUPS

THE NAACP: LOBBYING FOR BLACK AMERICANS

by Charles R. Sass

OBJECTIVES

At the end of this activity, students will be able to:

1. research and evaluate opposing interest groups.
2. identify the techniques interest groups use to influence policymaking.
3. define the role of interest groups in the political process.

STUDENT ACTIVITIES

Have students read the case study "The NAACP: Lobbying for Black Americans." What are the students' opinions of interest groups after reading the case study? How important is the role of interest groups in the U.S. political process?

Then, have students focus on techniques interest groups use to influence the policymaking process. What were and are some of the tactics used by the NAACP? What are some other techniques? You may want to bring in interest group advertisements, mailings, or requests for letter-writing campaigns to pass around. Some techniques to consider and discuss include letter-writing campaigns, media advertisements, lobbying, friend-of-the-court briefs, and demonstrations, rallies, and parades.

Finally, have students write an essay comparing the techniques of two opposing interest groups such as the National Rifle Association (NRA) and Handgun Control, Inc. You may want to provide a list of other opposing groups to give students some more ideas. Allow students ample time to make phone calls, write for information from their groups, and visit the library. In the essay, students should also discuss if and how their perception of interest groups has changed as a result of conducting this research.

CHAPTER 7 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "Interest Groups." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. Have students develop a community survey on attitudes that people have toward interest groups, lobbyists, and/or PACs. Students should survey at least five people, gathering information about each respondent's age and occupation. Once students have compiled their results, ask them to look for patterns among people in similar occupations or age groups. Have them make generalizations based on their results.

2. Invite speakers from interest groups to discuss strategies, successes, setbacks, and goals. In particular, ask the speakers to bring materials and anecdotes from their lobbying experiences. The lobbyists should discuss lobbying and the democratic process. Have students prepare questions in advance.

3. Have students individually brainstorm a list of all groups—formal or informal—to which they belong. The list might include such things as family, neighborhood, sports teams, boy or girl scouts, religious groups, political parties, and the like. Then have students analyze their lists. Are they equally loyal to each group? If not, how would they rank them? Do interests of some groups compete with others? Finally, have students consider whether organized interest groups accurately reflect the full range of views held in the United States. If not, does this present a problem? Why or why not?

4. Have students write a one-page response to the question: If you had $500 to contribute to a political cause, how would you spend your money? They should decide individually how they will use their money—by contributing it to an individual, a PAC, another lobbying group, and so forth. Would students rather contribute to an individual or to an organized group? Would they contribute their money in one lump sum or divide it among different groups? Why? How would they find out about the variety of political groups and causes that exist? Would they follow up on how the individual or group used their contributions? Do students approve of political contributions in general?

5. Ask students to research the influence of PACs on a particular political campaign. They should find out from campaign finance disclosures the amount PACs, individuals, and others contributed to that campaign. Can students find any evidence of these contributions affecting the candidate's point of view?

6. Have students select an issue of local importance—for example, school budget cuts—and ask them to organize a letter-writing campaign. Explain that interest groups often use such campaigns to tap into grassroots support. Ask for volunteers to share some of their letters with the class.

7. Ask the class to clip advertisements by interest groups from newspapers for a few weeks. Then divide students into groups and assign each group an ad to research. They should verify facts, check on what the opposing side is arguing, and evaluate the overall effectiveness of the ad. Students should share their findings with the class. What generalizations can they make about interest group advertising?

CHAPTER 8: THE PEOPLE

MOTIVATOR Conduct a ballot poll in your class on the following question:

Should all American citizens be required by law to vote in all major elections?

Mark half the ballots with an *X* on the back. Give a ballot to every student; then have them vote and place their ballots in a box.

Tabulate and post the results. Now, tabulate the marked ballots only. Are the results any different? Can the students foresee any problem in letting 50 percent of the class decide the issue for the entire class? If not on this issue, then on others?

Compare the results with the low level of voter participation in the United States today. Encourage students to explain why they voted yes or no to this question. Finish the discussion by talking about the importance of citizen participation in democracy.

CHAPTER 8 . . . POLITICAL PARTIES AND PARTICIPATION: TWO VIEWS

by Ronald H. Brown and Richard N. Bond

OBJECTIVES

At the end of this activity, students will be able to:

1. describe a traditional Democrat and a traditional Republican party member.
2. discuss the liberal-conservative political spectrum.
3. evaluate their own stands on political issues.

STUDENT ACTIVITIES

Before students read "Political Parties and Participation: Two Views" by Ron Brown and Rich Bond, lead a discussion asking them to describe a traditional Democrat and a traditional Republican. They should focus on economic, ethnic, and religious stereotypes. Then ask them what the ideological differences between the two parties are. Which party has more members or traditionally wins elections in your area? Why do students think this is so?

After students have read the article, ask them to privately, on paper, place themselves at a spot on a continuum, on which the number one on the left end of the line represents a liberal viewpoint and the number five at the right end represents a conservative viewpoint. They should put this paper away until the end of this activity.

Select three or four issues of interest to students, such as handgun control, capital punishment, national health insurance, or something similar. (The issue of handgun control will be used as an example here.) Ask all students who oppose handgun control to move to one side of the room and those who are for it to move to the other side. Those who are undecided should sit in the center.

Have students on both sides explain their positions. As they explain, correct any misinformation and add information that has not been mentioned. Allow them to move from one group to another as they hear new information that may influence their position. As students move, ask their reasons for changing. Before the discussion ends, students who are left in the center must step in one direction or the other—even if only a few feet. They must be leaning one way or the other.

Now change the issue and again have students move to the side with which they agree. Be sure the liberal and conservative sides of the room are consistent for each issue.

Finally, tell students which side represented the liberal point of view and which side represented the conservative point of view. How do their stands on actual issues compare with their original assessment of themselves as liberals or conservatives? How would they compare themselves with their previous descriptions of traditional Republicans and Democrats? How would they account for any differences? Do they think that the entire ideological spectrum is contained in the two political parties?

CHAPTER 8 . . . THE DANGERS OF VOTER APATHY

by Curtis Gans

OBJECTIVES

At the end of this activity, students will be able to:

1. understand the dangers of nonparticipation to a democracy.
2. formulate recommendations to increase citizen participation.
3. identify reasons why eligible voters do not vote.

STUDENT ACTIVITIES

After students have read the article by Curtis Gans, "The Dangers of Voter Apathy," ask individuals to call out their ideas about the dangers of not voting. Write their responses on the board.

Divide the class into groups of four or five and ask each group to brainstorm reasons why people do not vote. Encourage students to speculate on all the possible reasons why people would choose not to vote. Then have the groups evaluate their lists, circling the reasons that they feel are most valid. Have the group compare their list of circled reasons for not voting to Gans's six recommendations to improve voter participation. The students should number Gans's recommendations and then write the number of the recommendation next to the problem on their list that the recommendation is designed to correct.

Next, the groups should study Gans's six recommendations. Would his recommendations eliminate all the valid reasons for not voting that students identified? If not, what recommendations would they make? Have each group develop and submit to you its own list of recommendations to increase voter turnout in the United States. Compile a list of all the recommendations. Copy and distribute it to the entire class.

CHAPTER 8 . . . WHY AMERICANS HATE POLITICS

by E.J. Dionne, Jr.

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss liberalism and conservativism in American politics.
2. evaluate Americans' views on liberalism and conservatism.
3. explain and evaluate E.J. Dionne's criticisms of modern politics.

STUDENT ACTIVITIES

Divide the class in half. Then, divide one of the halves into halves. One of the smaller groups should then stand together on one side of the classroom and the other smaller group should stand on the other side. The remaining larger group should stand in the middle of the room. Explain to students that this represents the division of political ideology in America. It is often represented on a spectrum, with the right side representing the conservative ideology and the left representing liberal ideology. Who sits in the middle? Many Americans are not decidedly liberal or conservative; rather, they prefer different or moderated aspects of both.

Have students return to their seats. Discuss students' perceptions of politics. Do they like politics? Why or why not? Do Americans in general like politics? Why or why not?

Have students read E.J. Dionne's article, "Why Americans Hate Politics." Then, in a brainstorming session, students should make a list of Dionne's criticisms of the conservative and liberal ideologies. Discuss reactions to the article. Do students agree with Dionne's view? Why or why not?

Finally, in a class discussion, have students propose ways for getting more Americans involved in politics. What would make students get involved? How can the current system be modified?

CHAPTER 8 . . . VOLUNTEERISM: THE POINTS OF LIGHT MOVEMENT

by C. Gregg Petersmeyer

OBJECTIVES

At the end of this activity, students will be able to:

1. explain the value of working together.
2. list the needs of the community in which they live.
3. evaluate their own skills and devise ways to apply them to community needs.

STUDENT ACTIVITIES

Develop two jigsaw puzzles out of different colors of paper or poster board. Make sure there are enough pieces between the two puzzles for each student to have one. Divide the class in half and give all the students in that half a piece of the same color puzzle. Do the same for the second group. Instruct students that they have five minutes to solve their puzzle. But, until the teacher ends the activity, students will not be allowed to communicate orally or in writing, though they may find other ways to communicate.

After both groups are finished or five minutes have elapsed, discuss the groups' problem-solving processes. Were they successful? Why or why not? How did students solve their problems? How did they communicate? Discuss the role of cooperation. What responsibility did each group member have? Explain that some Americans believe that group responsibility also applies to being a good citizen.

Assign students to read "Volunteerism" by Gregg Petersmeyer. After they have completed it, discuss their reactions. According to Petersmeyer, why do we need volunteers? Are there volunteer organizations in the students' community? Have students brainstorm a list of needs in their community. Write responses on the board. Then, on their own paper, they should evaluate their own strongest characteristics, skills, talents, or other assets (such as singing, public speech, free time, patience). Students should compare their list with the list of needs on the board. Have them think of three ways they could use their personal strengths to help others.

CHAPTER 8 . . . ACTIVISM IN THE LATINO COMMUNITY

by Antonia Hernandez

OBJECTIVES

At the end of this activity, students will be able to:

1. explain citizen activism.
2. analyze social movements in U.S. history.
3. describe ways to become an active participant in the democratic system.

STUDENT ACTIVITIES

Have students define a "community." Write their ideas on the board. Next, ask them to call out communities to which they belong (such as family, ethnic, religious, geographical, political, social, and so on). Then, ask them to identify at least one need in each community listed on the board (whether it is taking out the trash in the family community, feeding the homeless in the city community, or protesting a government policy in the national community). Are students involved in their various communities? What do they do if they disagree with a teacher's policy? A school policy? A city policy? Explain that citizen activism involves working to bring about positive change in a public policy. Some say it is the essence of a democratic system.

Next, have students read the article by Antonia Hernandez. According to Hernandez, how do citizens voice their opinions? How has activism benefited the Latino community? Can members of your class think of times that actions by students or people in their community made a positive change? If so, what did the activists do?

To help focus students in their research, have each student complete **Student Handout 24—Social Movements in U.S. History.** Then divide the class into groups of five or six. Have each group choose a social movement in the United States in which citizens worked together to change American society. Students can research their own topics or choose one of the following:

- abolitionist movement
- civil rights movement
- environmental movement
- progressive movement
- temperance movement
- women's suffrage movement

After research has been completed, have each group prepare a presentation for the class describing their chosen social movement and the effect it had on society at that time and/or the effect it has on society today. A spokesperson from each group should present his or her group's findings in front of the whole class.

CASE STUDY

THE PEOPLE
HOMELESSNESS AND TREVOR FERRELL

by Nancy A. Bergman

OBJECTIVES

At the end of this activity, students will be able to:

1. discuss what constitutes civic responsibility.
2. describe the differing attitudes that people have about their roles as citizens.

STUDENT ACTIVITIES

Before students read the case study, write the following statement on the board:

A person is a responsible citizen when he or she ________________________________.

Then, in a brainstorming session, ask your students to respond with short, quick answers. One to four words will do. Write their responses on the board as you proceed. When you have compiled a list of fifteen to twenty student answers, spend a few minutes reviewing the items. Responses will probably range from simple answers such as "votes" or "pays taxes" to more complex ones such as "becomes a foster parent" or "feeds the homeless." Point out the simple to complex range of activities. Remind students that the range of opinions around the nation would probably be no different from the range of opinions in their class because people hold many different opinions about what constitutes civic responsibility.

Next, distribute copies of **Student Handout 25—Civic Responsibilities.** Give students ten or fifteen minutes to finish the handout. Then tally their rankings on the board by writing down the numbers *1* through *12* in columns and going through the list asking "How many of you ranked number one first? How many ranked it second?" and so forth. If students are reluctant to raise their hands, you might want to tally the votes yourself and simply post the results. When the rankings are tallied, average the scores and discuss the results. Are students surprised by any of the final rankings? Was it difficult for them to assign a ranking to the items? Encourage students to express opinions about individual items and tell why they think any of the items should be ranked higher or lower. Remind them that this list is by no means complete, but is merely a sampling of possible activities that could be considered civic responsibilities.

Conclude by pointing out how the diversity of American opinions and attitudes about civic responsibility has been demonstrated in this activity. Also emphasize that apathy is no excuse for shirking civic responsibility.

CHAPTER 8 . . . ENRICHMENT ACTIVITIES

Use the following activities to supplement the lessons on "The People." You may find the activities valuable for evaluation, extra credit, or as an additional activity or assignment for a particular article or unit.

1. By comparing political party platforms, students can gain insight into the similarities and differences of the two parties. Have interested students write or call the Democratic and Republican state offices for information on the current party platforms. They should share this information with the class. Are they surprised by any of the party stances? If so, why?

2. One of the major ways in which Americans participate in the political system is by becoming involved in political parties. Have students investigate activities of local branches of political parties. How can students become involved? How many people actively participate in party functions and campaigning? How are they making a difference?

3. Have students develop a survey on why people do or do not vote. They should inquire about the respondent's age, income, and education, and ask why the person does not vote. Students should try to survey people of all ages and walks of life. See if they can discern any patterns and make generalizations about voting habits and voter apathy.

4. Have students organize a get-out-the-vote campaign in your school or community. Students can conduct leaflet campaigns or set up a voter registration table. They may need to conduct research into other organizations that sponsor similar campaigns for some ideas.

5. After students conduct research about liberal and conservative ideologies, have them develop and administer a survey on how Americans view themselves in light of these two philosophies. Students should try to evaluate the influence (if any) of factors such as ethnic background, occupation, age, religion, or economic status in determining ideological slants.

6. Ask students to develop individual or group plans to help the community. For example, an individual might organize a small group to visit hospitals and nursing homes. Or the class could plan to make and distribute sandwiches once a week for the homeless. Urge students to implement their plans.

7. Organize a debate on the following statement:

> Community service should be a requirement for high school graduation.

8. Have students predict the next major social movement in the United States. They should write a one-page essay describing the movement, its cause, the people involved, any opposition to the movement, the effect that this movement may have on society, and why they think such a movement is coming.

9. Have students brainstorm a list of ten to fifteen needs in their community. List their responses in a column on the board. Next, write "individual," "community group," "local or state government," and "federal government" in a row across the top of the board. Go through each need and poll the students as to which group is primarily responsible for dealing with it. Tally student responses. Once you have gone through the list of concerns, examine the results and discuss who is responsible for various community needs. Ask students how they determined who is responsible. Did they have a difficult time assigning one responsible party to each community concern? When more than one group is responsible for a community need, does it get dealt with effectively?

10. Ask students to write a short story describing the ideal citizen. Their description should be as realistic as possible. They should present their stories to the rest of the class. After all students have made presentations, ask them to choose which story best described the "ideal citizen."

11. Divide the class into groups of five or six. Have each group role play the framers of the Constitution. Have them draft a "Bill of Responsibilities" in which they list no more than ten responsibilities for U.S. citizens. After each group has completed its list, have one person from each group present its bill. After each group has made its presentation, compare the bills. What types of responsibilities emerged from the lists? Should such a bill of responsibilities be added to the Constitution? Why or why not?

STUDENT HANDOUT 1

CRITIQUING OPINIONS

Directions: Answer the following questions, based on your assigned article in *Perspectives*.

Before reading the article, answer the following:

1. Read the biography of the author. List two factors that might influence this author's opinion. Based on the author's biography and the title of the work, what do you think the author will say in this article?

After reading the article, answer the following:

2. Does the author use figures? What is the source? Is it a reliable, unbiased source?

3. Does the author make broad generalizations? If so, does he or she support them with specific examples to illustrate the point?

4. Where did the author get his or her information? Is it based on fact? Personal experience? Other things?

5. What is the author's opinion? Is it different than you had guessed in question 1? If so, why?

6. Does the author identify a problem? If so, how does he or she describe it? Is the description fair and accurate?

7. Does the author identify a solution to a problem? Do you think the solution would work? Why or why not? Would the solution lead to other problems? What are some other possible solutions?

8. Give three main points that support the author's opinion.

9. Give three counterarguments to refute the author's opinion.

10. Do you agree or disagree with the author's point of view? Why?

11. Did the author change your mind about anything? If so, what? What made you change?

12. On a scale of 1 to 10, with 1 being poor and 10 being excellent, how would you rate the strength of this author's argument, regardless of whether you agree or disagree with it? Why?

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STUDENT HANDOUT 2

CONSTITUTIONAL AMENDMENTS: A TIMELINE FOR CHANGE

Directions: Examine the following timeline of constitutional amendments, paying particular attention to the dates of ratification. Then answer the questions that follow.

DATE RATIFIED	AMENDMENT	DESCRIPTION
1791—December 15	The Bill of Rights:	
	Amendment 1—	Grants freedom of religion, speech, press, assembly, and petition
	Amendment 2—	Grants the right to bear arms and to maintain a state militia
	Amendment 3—	Protects citizens from having to house soldiers
	Amendment 4—	Protects citizens from unreasonable searches and seizures
	Amendment 5—	Gives criminal defendants the right to a grand jury indictment; protects defendants from being tried twice for the same offense or forced to testify against themselves; entitles defendants to due process of law; and requires the government to pay for property taken for public use
	Amendment 6—	Guarantees the right to a speedy and public trial by an impartial jury in a criminal case; gives the accused the right to counsel, to question and obtain witnesses, and to be informed of the charges
	Amendment 7—	Guarantees the right to a trial by jury in civil cases
	Amendment 8—	Prohibits cruel and unusual punishment and excessive bail and fines
	Amendment 9—	Reserves rights for the people in addition to those listed in the Constitution
	Amendment 10—	Grants powers not delegated to the federal government to the state governments or to the people
1795—February 7	Amendment 11—	Restricts judicial power regarding suits brought by one state against another or by foreign countries
1804—June 15	Amendment 12—	Lists procedures for electing the president
1865—December 6	Amendment 13—	Prohibits slavery
1868—July 9	Amendment 14—	Guarantees former slaves the rights to citizenship, due process, and equal protection of the laws
1870—February 3	Amendment 15—	Guarantees the right to vote regardless of race
1913—February 3	Amendment 16—	Gives Congress the power to collect income taxes
1913—April 8	Amendment 17—	Provides for direct election of U.S. senators
1919—January 16	Amendment 18—	Prohibits making, selling, or transporting alcohol (repealed December 5, 1933, by Amendment 21)
1920—August 18	Amendment 19—	Grants women the right to vote
1933—January 23	Amendment 20—	Denotes the beginning and end of terms for the president and Congress; provides for the transfer of power in the event of the president's death in office
1933—December 5	Amendment 21—	Repeals Prohibition
1951—February 27	Amendment 22—	Limits presidents to a maximum of two terms
1961—March 29	Amendment 23—	Gives voters in the District of Columbia the right to vote for president and vice president

DATE RATIFIED	AMENDMENT	DESCRIPTION
1964—January 23	Amendment 24—	Forbids states from charging voters a tax at the voting booth
1967—February 10	Amendment 25—	Designates the transfer of power in the event that the president is removed from office
1971—July 1	Amendment 26—	Grants eighteen-year-olds the right to vote
1992—May 7	Amendment 27—	Prohibits congressional pay raises from going into effect until after the general election

QUESTIONS TO CONSIDER

1. Which groups of people have gained rights over the years? What rights have they gained?

2. Examine the dates of passage of the amendments. What concerns do amendments 13, 14, 15, and 24 address? When were they passed? With what events did their passage coincide?

3. Why are amendments passed? Amendments have been proposed allowing school prayer, permitting or forbidding abortions, and prohibiting the desecration of the American flag. Should these or any others be added to the Constitution?

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STUDENT HANDOUT 3

FEDERALISM IN ACTION

Directions: Read the following powers of government. Consult the U.S. Constitution and your state constitution to determine if the powers are national (n), state (s), or local (l). Place the appropriate letter in the blank. Be sure to include all letters that apply for each power.

1. Determine marriage and divorce laws __________
2. Administer welfare programs __________
3. Approve constitutional amendments __________
4. Raise and support armies __________
5. Set property taxes __________
6. Regulate interstate commerce __________
7. Regulate nuclear power plants __________
8. Coin money __________
9. License incorporation of businesses __________
10. Establish zoning laws __________
11. Set air pollution standards __________
12. Lay tariffs on imports __________
13. Admit new states to the union __________
14. Establish courts __________
15. License lawyers, doctors, barbers, plumbers, and other occupations __________
16. Determine the need for seatbelt laws __________

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STUDENT HANDOUT 4

CHECKS AND BALANCES

The common denominator of all three branches (legislative, executive, and judicial) of our national government is the law. Each branch relates to the law in the following way:

- The legislative branch writes the laws.
- The executive branch enforces the laws.
- The judicial branch interprets and resolves disputes under the law.

Directions: The following situations illustrate how the three branches interact and show the complexity of the checks and balances system set up by the framers of the Constitution. Read all three situations and, with your group, select the one you'd most like to discuss. After discussing your situation with group members, answer the questions at the end of this handout.

Situation 1. There is a vacancy on the Supreme Court. The president and his advisers consider several potential candidates and select one. The nomination is sent to the Senate Judiciary Committee, which holds hearings and then makes a recommendation to the full Senate for a vote to support or reject the nominee. Some interest groups and constituents pressure the senators to reject the nomination based on the candidate's political views. The president argues that rejecting the nominee for political reasons interferes with the executive's constitutional power to appoint Supreme Court justices. However, some senators believe that they must scrutinize the nominee as part of their constitutional obligation to approve new justices.

Situation 2. A federal law was passed by Congress ten years ago. The law has remained unchallenged by any citizens or groups, but a current member of the Justice Department (part of the executive branch) files a test court case that questions basic aspects of the law. The official is acting upon quiet orders from the president, who disagrees with the law. Several citizen groups complain, arguing that the law worked and there was no civic opposition to it.

Situation 3. The president is accused of ordering a high-ranking White House official to use the Internal Revenue Service and the Federal Bureau of Investigation (also of the executive branch) to stifle political opposition to the president's policies. Members of the House of Representatives seek to investigate the facts to determine whether to impeach the president. Several members of the executive branch invoke "executive privilege" (the right to withhold information, even from Congress) as a basis for not turning over documents to the House.

QUESTIONS TO CONSIDER

1. How do the branches interact in your situation? Provide three specific examples.

2. Where is the separation of power in your situation?

3. Who do you think should prevail in your situation? Why?

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STUDENT HANDOUT 5

RANKING RIGHTS AND FREEDOMS

Directions: This is a list of sixteen freedoms and rights guaranteed by the Bill of Rights. Choose the ten items on this list that are most important to you and that you absolutely would not be willing to give up. Rank them in order of importance to you, from 1 (most important) to 10 (least important). Keep in mind that the items you leave off your list will no longer be guaranteed to you. After you have selected your top ten, answer the questions that follow.

______ freedom of religion

______ freedom of speech

______ freedom of press

______ freedom of assembly

______ freedom of petition

______ right to keep and bear arms

______ security against unreasonable searches and seizures

______ probable cause necessary for issuance of a search warrant

______ indictment by a grand jury necessary before being made to answer for a capital crime

______ cannot be tried twice for the same crime (double jeopardy)

______ cannot be made to testify against yourself

______ cannot be deprived of life, liberty, and property without due process of law

______ must be compensated for private property taken for public use

______ right to a fair and speedy jury trial

______ cannot be held in jail by excessive bail

______ cannot be subjected to cruel and unusual punishment

1. Which one of your top ten is most important to you? Why?

2. Which one of your top ten is least important to you? Why?

3. Which one of the six not on your list was most difficult to give up? Why?

4. Which one of the six not on your list was easiest to give up? Why?

5. Write a paragraph discussing the process you used and the difficulties you had in arriving at your top ten list. Explain how you ultimately made the tough choices as you were deciding the last few items on your list.

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STUDENT HANDOUT 6

VIEWS ON THE CONSTITUTION

Directions: After reading "Perspectives on the Constitution," fill in the chart below.

NAME	VIEW OF THE CONSTITUTION	BASIS FOR THESE VIEWS	DO YOU AGREE (A) OR DISAGREE (D)?
Ernest Green			
LaDonna Harris			
Orrin Hatch			

BEST COPY AVAILABLE

NAME	VIEW OF THE CONSTITUTION	BASIS FOR THESE VIEWS	DO YOU AGREE (A) OR DISAGREE (D)?
Daniel Inouye			
Gregory Johnson			
Norma McCorvey			
________ (Your Name)			

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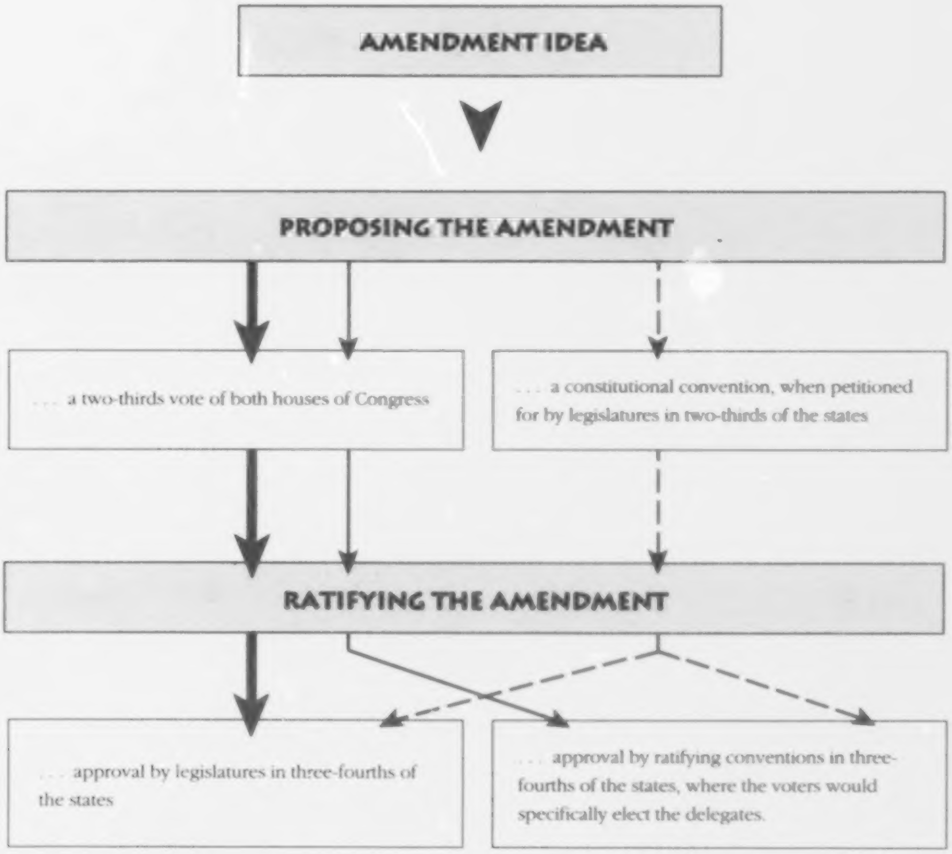
STUDENT HANDOUT 7

CHANGING THE CONSTITUTION

Even though the framers wrote the Constitution to be a living and adaptable document, changing times sometimes call for changes in the Constitution. This can be done by adding amendments. In Article V of the Constitution, the framers gave the responsibility for changing the Constitution strictly to Congress; the executive branch has no formal authority over amendments.

After reading "Prohibition and Its Repeal" in *Perspectives*, examine the chart below.

CHANGING THE CONSTITUTION



. . . a two-thirds vote of both houses of Congress

. . . a constitutional convention, when petitioned for by legislatures in two-thirds of the states

. . . approval by legislatures in three-fourths of the states

. . . approval by ratifying conventions in three-fourths of the states, where the voters would specifically elect the delegates.

*Time Limit: Congress usually designates a time limit of seven years for ratification, or else the amendment will not become part of the Constitution.

▬ Usual method used
— Used once for Twenty-first Amendment
— — Still unused

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Answer the following questions:

1. Which method of ratifying amendments gives the voters the largest voice?

2. Which methods were used to propose and ratify the Eighteenth Amendment?

3. Which methods were used to propose and ratify the Twenty-first Amendment? Which were used to repeal the Eighteenth Amendment? Why?

4. In more than 200 years, twenty-seven amendments have been added to the Constitution. Do you think that number is too low? Too high? Why?

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STUDENT HANDOUT 8

NEW AMENDMENTS TO THE CONSTITUTION?

Directions: Read the following amendment proposals. In the space below each proposal, explain how likely the amendment would be to pass, based on your knowledge of the amendment process. Finally, rank them in order of their likelihood of being added to the Constitution.

1. **The Equal Rights Amendment (ERA).** This amendment would guarantee that "equality of rights under the law" would not be denied on account of sex. Proponents argue that the ERA is a necessary and final step to establishing full equal rights for all Americans. On the other hand, opponents argue that the ERA would eliminate many standards that American women are accustomed to, such as exemption from the military draft and combat duty.

2. **The District of Columbia Representation Amendment.** Residents of the District of Columbia (Washington, D.C.) are subject to federal (as well as local) laws and taxes, as are all state residents. However, Washington, D.C., does not have representation in Congress—only a nonvoting delegate. This amendment proposes giving the residents of Washington, D.C., the same representation in Congress as residents of states of similar size have: two senators and one representative. (The District of Columbia has over 600,000 people.) Proponents argue that D.C. residents are living under a system of "taxation without representation," because they are subject to federal taxes without having a voice in the government. However, opponents say that Washington, D.C., is different from the states because it houses most of the federal government offices, and those should remain separate. Some also say that Washington, D.C., is a city, not a state, and therefore should not have the same voice as states.

3. **The Flag Burning Amendment.** In the case *Texas v. Johnson,* the Supreme Court ruled that burning the American flag was a form of freedom of expression protected by the First Amendment. Enraged lawmakers proposed an amendment that would make flag burning a federal crime. Opponents argue that such an amendment is too specific and not a sweeping issue; therefore, flag burning should not be included in a flexible document such as the Constitution. They also believe that flag burning is protected free speech and that the government has no place defining patriotic symbols for its citizens. Proponents argue that the flag is the most sacred symbol of American patriotism and should not be violated in any way. They believe that symbols cherished by Americans should be protected by the Constitution.

4. **The School Prayer Amendment.** One version of this amendment would allow prayer in the public schools. Supporters believe that time for religious reflection is important in the moral development of children. They argue that freedom of religion and expression must be emphasized during school prayer time. Opponents point out that the Supreme Court has only prohibited teacher-led prayers in schools; thus an amendment is not necessary. Furthermore, opponents say, an amendment might lead to official prayer, which would infringe upon the First Amendment freedoms of students who choose not to pray.

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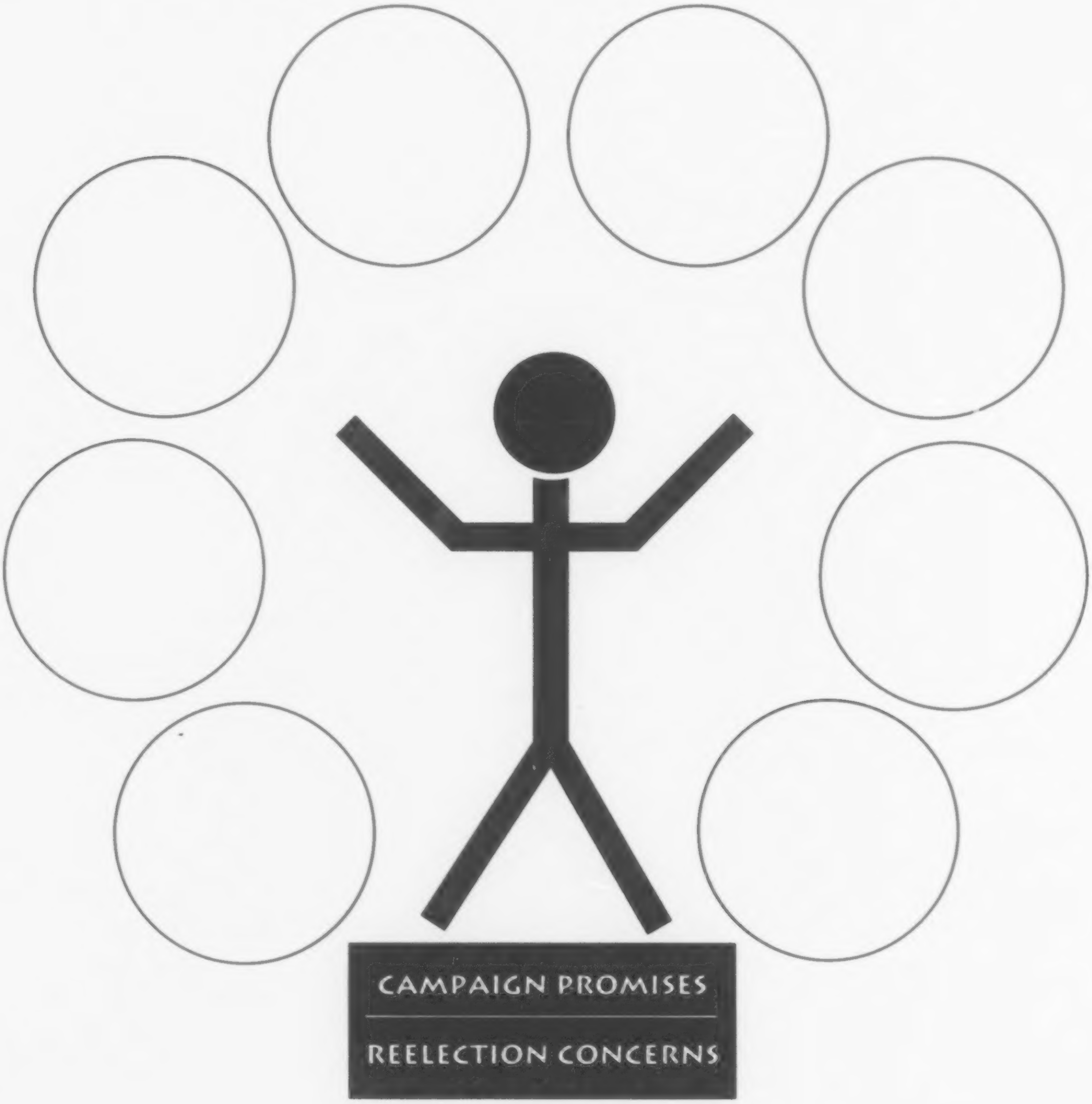
STUDENT HANDOUT 9

U.S. LAWMAKERS JUGGLE A VARIETY OF CONCERNS

After brainstorming the question "What factors does a member of Congress consider in making decisions on legislation?" select eight items from the class list that you think have the most influence over a legislator's political decisions. Write each one in a ball on the cartoon below. Then consider the meaning of this cartoon. What image of a U.S. lawmaker does this cartoon convey?



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STUDENT HANDOUT 10

VIEWS ON REPRESENTATION

Directions: Read each of the following quotes about representative democracy. Below each quote, write a definition of representative democracy based on that quote.

1. *"Whether voting on issues, cutting through bureaucracy, or sponsoring legislation, successful members of Congress never forget that their job is to represent their home district's concerns in Washington."*

—Representative Constance Morella

2. *"The professionalization of politics is incompatible with the core values of representative government."*

—Mark Petrucca, as quoted in George Will's article

3. *"Chances are that if the legislature consisted of junior amateurs, the real policy decisions would be taken away from an overwhelmed Congress out of its league and made instead by seasoned bureaucrats, presidential appointees, judges, and the crafty and experienced people now being regulated—those we sometimes call the 'special interests.'"* —Norman Ornstein

4. *"Thus, a party is formed around some principle or group of principles commonly shared by like-minded citizens who believe their power to influence political events will be increased by uniting under one banner."*

—Representative Robert H. Michel

5. *"Congressional aides are essential intermediaries between the public and their elected officials."*

—Robert L. Mallett

6. *"That democracy had at least one merit, namely, that a member of Parliament cannot be stupider than his constituents, for the more stupid he is, the more stupid they were to elect him."*

—Bertrand Russell

7. *"I know not how better to describe our form of government in a single phrase than by calling it a government by the chairman of the standing committees of Congress."*

—Woodrow Wilson

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STUDENT HANDOUT 11

PRESIDENTIAL SCORECARD

Directions: Complete the following chart. Be prepared to explain your answer.

THE PRESIDENT:	**EXCEPTIONAL**	**SATISFACTORY**	**POOR**	**DON'T KNOW**
1. works effectively with Congress				
2. makes nation as a whole feel secure and prosperous				
3. is popular with the American public				
4. seems to be well informed on issues				
5. responds well under pressure				
6. makes wise selection of cabinet and White House staff				
7. is respected by foreign leaders				
8. is honest about weaknesses and mistakes				
9. seems personable and approachable				
10. uses media effectively				

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STUDENT HANDOUT 12

CONGRESS AND THE PRESIDENT

Directions: Use the following chart to predict the outcome of certain events under different presidential and congressional party affiliations. To complete the chart, first write in the issue you are considering. Then, using the key below, decide what would happen to legislation on that issue. For example, in Box 1, would the legislation pass or fail if the president and both Houses of Congress were Republican? Write a P, F, BP, or H in that box. (See bottom of page for key to letters.) Then go on to the situation in Box 2, and so on.

ISSUE:

		CONGRESSIONAL PARTY CONTROL		
PRESIDENT'S POLITICAL PARTY		BOTH HOUSES REPUBLICAN	BOTH HOUSES DEMOCRATIC	ONE HOUSE REPUBLICAN; ONE HOUSE DEMOCRATIC
	REPUBLICAN	①	②	③
	DEMOCRATIC	④	⑤	⑥

ISSUE:

		CONGRESSIONAL PARTY CONTROL		
PRESIDENT'S POLITICAL PARTY		BOTH HOUSES REPUBLICAN	BOTH HOUSES DEMOCRATIC	ONE HOUSE REPUBLICAN; ONE HOUSE DEMOCRATIC
	REPUBLICAN	①	②	③
	DEMOCRATIC	④	⑤	⑥

ISSUE:

		CONGRESSIONAL PARTY CONTROL		
PRESIDENT'S POLITICAL PARTY		BOTH HOUSES REPUBLICAN	BOTH HOUSES DEMOCRATIC	ONE HOUSE REPUBLICAN; ONE HOUSE DEMOCRATIC
	REPUBLICAN	①	②	③
	DEMOCRATIC	④	⑤	⑥

KEY:

P = Pass—Legislation will pass very easily after little effort.

F = Fail—Legislation will fail after much effort.

BP = Barely pass—Legislation will pass, but not easily.

H = Hopeless—Highly unlikely that legislation will pass, so little effort is put into it.

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STUDENT HANDOUT 13

DIVIDING THE POWERS

Directions: Using the Constitution as a guide, fill in the chart below. Identify constitutional powers and write them in the chart. Then decide if the power applies to Congress or the president (some may apply to both), and put a check in the appropriate column.

CONSTITUTIONAL POWER	PRESIDENTIAL POWERS	CONGRESSIONAL POWERS
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

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STUDENT HANDOUT 14

SPENDING ON SOCIAL PROGRAMS

Directions: The preamble to the Constitution states that one of the purposes of government is "to promote the general welfare." Keeping this in mind, indicate whether you agree or disagree with each of the following statements by circling either A or D.

	AGREE	DISAGREE
1. The income of low-income Americans should be supplemented until it reaches the government's definition of the poverty level.	A	D
2. Government is obligated to make sure that every American is adequately housed.	A	D
3. The food stamp program should be expanded so that everyone in the United States receives at least their minimum daily nutritional requirements.	A	D
4. The Social Security program should be changed so that only retired persons without any other means of support would receive benefits.	A	D
5. The government should provide free medical care for all Americans.	A	D
6. Child care is a privilege, not a right, and government has no responsibility to provide child care for those who cannot afford it.	A	D

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STUDENT HANDOUT 15

VIEWS ON THE BUREAUCRACY

Directions: Read the following views on the bureaucracy. Do you agree with any of these? Why or why not?

"The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all in their separate and individual capacities."

—Abraham Lincoln (1809-1865), president of the United States (1861-1865)

"Bureaucracy is a giant organization operated by pygmies."

—Honoré de Balzac (1799-1850), French fiction writer

"We can lick gravity, but sometimes the paperwork is overwhelming."

—Wernher von Braun (1912-1977), rocket scientist

"I do not rule Russia; ten thousand clerks do."

—Nicholas I (1796-1855), Czar of Russia (1825-1855)

"It is hard to feel individually responsible with respect to the invisible processes of a huge and distant government."

—John Gardner (1912-), founder of Common Cause and former secretary of the Department of Health, Education, and Welfare (HEW)

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STUDENT HANDOUT 16

WHO GIVES THE ORDERS?

Directions: The following is a list of people or institutions to which government employees may be accountable. Who or what do you think has the most influence over the work of these employees? Rank the following items, with 1 meaning the most influence and 10 meaning the least.

_____ department supervisors

_____ the president

_____ Congress

_____ the Constitution

_____ the laws

_____ court rulings

_____ the media

_____ the employee's own political party

_____ the employee's opinions and beliefs

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STUDENT HANDOUT 17

COMPARING VIEWS ON REGULATION

Directions: Read the following quotes from "Government Regulation: Two Views." Try to identify which point of view, consumer or business, each quote represents. Put a check in the appropriate column. If you think an idea could belong to both, check that column.

	VIEWPOINT		
QUOTE	**BUSINESS**	**CONSUMER**	**BOTH**
1. "Many regulations are unnecessary or go far beyond what is needed."	☐	☐	☐
2. "These regulations are an excessive burden to industry and drive up the prices we pay for goods and services."	☐	☐	☐
3. "Deregulation demonstrates just how much more efficient and responsive industry becomes when it is allowed to respond to consumer demands rather than being run by a government agency. . . ."	☐	☐	☐
4. ". . . While deregulation of the telephone industry has produced lower prices, it has also produced a variety of substandard, low-quality products and long-distance services."	☐	☐	☐
5. "Protection of public safety is a legitimate function of government, along the same line as police and fire protection."	☐	☐	☐
6. ". . . It is unfair to weigh the cost of a regulation against its benefits."	☐	☐	☐
7. ". . . The elimination of so-called 'economic regulation' of long-distance phone rates has produced lower prices that are a boon to consumers."	☐	☐	☐
8. "Another legitimate function of government regulation is to increase and preserve competition."	☐	☐	☐
9. ". . . The flood of Japanese imports [cars] . . . was the result of poor corporate planning, not government regulation."	☐	☐	☐

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STUDENT HANDOUT 18

WILL THEY HEAR THIS CASE?

Directions: After reading Phillip Spector's article, "The Supreme Court: Deciding What to Decide," complete the following chart. Spector lists criteria the Supreme Court uses to select cases. After reading the case description below, select the criterion (there may be more than one) that applies to each case and write the corresponding number in the blank. Keep in mind that the situations below closely resemble actual cases.

SPECTOR'S CRITERIA

1. Two appellate courts conflict.
2. A lower court declares a statute unconstitutional.
3. A lower court makes an interpretation that may have violated the rights of a person accused of a crime.
4. The federal government requested review.
5. The case reflects large issues of concern to all Americans.
6. The case could help establish useful guidelines in controversial areas.

_______ A. A young woman charges that her right to privacy has been violated by state statutes restricting abortion. She says her right to privacy is guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth amendments to the Constitution. The district court dismissed the woman's complaint. She appealed to the Supreme Court.

_______ B. A student-run school newspaper published a controversial story about homosexuality. The school officials said they had the right to censor a student newspaper because schools are obligated by law to protect the safety of students and maintain a good learning environment. The district court agreed with the school officials. However, the court of appeals ruled that student newspapers are a public forum, and could only be censored if necessary to avoid disruption in school. The students appealed to the Supreme Court.

_______ C. An Amish family refused to send their children to school after the eighth grade, arguing that it was contrary to the Amish religion and way of life. The state had a mandatory school attendance law until age sixteen, and ordered the family to send their children to school. They refused. The local court found the family in violation of the attendance law, and upon appeal, the State Circuit Court also found them guilty. They appealed to the Supreme Court, arguing that their First Amendment right to freedom of religion was being violated.

_______ D. After the fall of democracy in a tiny, poverty-stricken Caribbean country, hundreds of refugees sought asylum in the United States. The federal government ordered that they be returned to their country because they did not qualify for citizenship. Several civil rights groups petitioned lower courts, and a federal court imposed an injunction to stop the United States from returning the refugees. The federal government asked the Supreme Court to consider its case because of the refugees' urgent need for assistance.

_______ E. A young woman was critically injured in an automobile accident. Though doctors were able to keep her alive by inserting a feeding tube into her stomach, the woman was unresponsive to her surroundings. After several years of no improvement, her parents asked to have her feeding tube removed so that she would be allowed to die. They argued that she would not want to live that way. The trial court ruled in favor of her parents' request, but the State Supreme Court ruled that the state needed "clear and convincing evidence" of the young woman's wishes, which, the court argued, the parents did not have. The family appealed to the Supreme Court.

_______ F. A man was arrested at his home and taken to a police station. A witness identified him from a lineup as the person responsible for a kidnapping and rape. The police interrogated the man for two hours, after which they came out with a signed confession. However, in his trial, the man argued that he was not informed that he had a right to have an attorney present during his questioning by the police. The trial and state courts found him guilty, but he appealed to the Supreme Court on the grounds that his Fifth Amendment rights were violated.

_______ G. The Civil Rights Act of 1964 was interpreted differently in two separate cases. First, a local motel was charged with discriminating against blacks because it refused to accept black lodgers. The court ordered it to do so, and the owners of the motel appealed to the Supreme Court. In a related case, a restaurant was allowed by another court to refuse to accept black customers

_______ H. A young man was arrested at the city hall for dousing an American flag in kerosene and setting it on fire. The lower court found him guilty of desecrating the flag under a state statute. The man maintained that the statute violated his constitutional right to freedom of speech and expression under the First Amendment. The Court of Criminal Appeals reversed the lower court's decision, and ruled that the statute was indeed unconstitutional. The case was appealed to the Supreme Court.

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STUDENT HANDOUT 19

GIDEON V. WAINWRIGHT

At age fifty-one, Clarence Earl Gideon was a drifter, a petty gambler, and an ex-convict. He was the kind of person you might see camped under a railroad bridge or sitting on the sidewalk in the skid-row section of any town. Despite his humble appearance, Gideon was destined to play a major role in U.S. constitutional history.

While Gideon was living in Panama City, Florida, a poolroom in a seedy section of town was burglarized. The coin boxes of the jukebox and cigarette machine were emptied, and some beer and wine were taken. The poolroom had been entered through a broken window. Gideon lived across the street in a shabby hotel. Acting on a tip from a man who had recently had an argument with Gideon, the police arrested Gideon and charged him with breaking and entering.

Gideon did not have a lawyer, and he had no money to hire one. He asked the state of Florida to appoint a lawyer. However, the judge ruled that this was not a capital case (one in which the defendant could receive a death sentence), and therefore, Florida law did not require appointment of a defense attorney. Gideon protested, but to no avail.

Gideon conducted his own defense without a lawyer. He questioned the person with whom he argued, but failed to inquire about what the individual was doing out all night or what his motivations might have been for reporting Gideon. He did not ask about the person's reputation—which was not very good. Gideon also questioned the other prosecution witness, the owner of the poolroom, and then presented eight defense witnesses. However, Gideon's questioning of these witnesses followed no coherent argument and did little to strengthen his defense. Throughout the trial, Gideon simply stressed his own innocence. The judge found Gideon guilty and sentenced him to five years in the state prison.

Gideon submitted a writ of habeas corpus, but it was denied. Refusing to accept what he felt was an unjust sentence, Gideon wrote and presented a pauper's petition to the Supreme Court. He felt that his conviction violated the Due Process Clause of the Fourteenth Amendment because he had not been represented by a lawyer and had been sentenced to prison. The Supreme Court appointed Abe Fortas, a prominent Washington attorney who later became a Supreme Court justice, to argue Gideon's case before the high court.

QUESTIONS TO CONSIDER

1. What are the facts in this case?

2. What important principles are raised by this case?

3. If you had to defend yourself in court, what problems might you have?

4. Do you believe that Gideon's first trial was fair? Why or why not?

5. Should a person's wealth have any influence on the fairness of the trial he or she receives? Does wealth influence trials in reality?

6. Do you think that poor people today receive the same quality of defense that a wealthy person does? Why or why not?

7. How would you have decided this case, and why?

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STUDENT HANDOUT 20

INTERPRETING THE CONSTITUTION

Directions: After reading the article "How Judges Should Interpret the Constitution: Two Views," use points raised in each article to develop pro and con arguments for each view.

STRICT CONSTRUCTION means interpreting the Constitution as the framers wrote it and intended it.

PRO	CON
1.	1.
2.	2.
3.	3.

THE NOTION OF A LIVING CONSTITUTION means the Constitution is constantly evolving; therefore, judges should read between the lines to interpret the meaning.

PRO	CON
1.	1.
2.	2.
3.	3.

How should judges interpret the Constitution?

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STUDENT HANDOUT 21

JUDICIAL ACTIVISM AND JUDICIAL RESTRAINT

While reading the case study, determine when a judicial action was an example of judicial restraint or judicial activism. Fill in the chart below by describing the action in the appropriate box and then checking whether it shows activism or restraint. Be prepared to explain why you decided as you did.

JUDICIAL ACTION	ACTIVISM	RESTRAINT
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

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STUDENT HANDOUT 22

CARTOON EVALUATION

Rate each of the posted cartoons on a scale from 1 to 5, with 1 being the least effective and 5 being the most effective. Briefly explain in the evaluation section for each category the specific aspects of the cartoon that influenced your rating.

CARTOON NO.______

BRIEF CARTOON DESCRIPTION: ____________________

RATING:

EVALUATION:

____ immediate visual impact

____ clarity of message

____ use of symbols

____ use of humor

____ appealing caricatures

____ sparks debate on issue

____ evokes emotion

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STUDENT HANDOUT 23

POLITICAL ACTION COMMITTEES

Directions: After reading "Political Action Committees: Two Views" by Senator David L. Boren and Thomas Berglund, complete the following chart.

POLITICAL ACTION COMMITTEES	
ARGUMENTS FOR	**ARGUMENTS AGAINST**

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STUDENT HANDOUT 24

SOCIAL MOVEMENTS IN U.S. HISTORY

Directions: As a research project, choose a social movement in the United States in which citizens worked together to change American society. Answer the following questions as you research:

1. Which social movement did you choose? Describe it.

2. What events led to the movement?

3. Who were some of the leaders of this movement?

4. How did the leaders get started in the movement?

5. What opposition did the movement face? How did it handle this opposition?

6. What were the results of the movement?

7. What lasting effects did this movement have on American society?

8. Would you join this movement if it were happening today? Why or why not?

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STUDENT HANDOUT 25

CIVIC RESPONSIBILITIES

Directions: Our responsibilities as Americans range from simple to complex actions. Some actions are duties, some are laws, and some are strictly voluntary. First, read through the entire list of civic actions below—several times if necessary—and then rank them from 1 to 12, giving a 1 to the action you think is most important and a 12 to the one you think is least important. Remember, there are no right or wrong responses in this exercise. Call them the way you see them!

_____ protesting unfair laws

_____ voting

_____ giving money to a charitable cause

_____ defending your country

_____ paying your federal income taxes

_____ expressing opinions to your elected officials

_____ taking a shower

_____ serving on a jury

_____ running for public office

_____ graduating from high school

_____ obeying the law

_____ volunteering at a soup kitchen

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